

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA - NORTHERN DIVISION

BETTY ANN BURKS, et al., :  
:   
Plaintiffs, :  
:   
v. : No. 2:06-CV-1081-MEF  
:   
EQUITY GROUP EUFAULA :  
DIVISION, LLC, :  
:   
Defendant. :

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MEMORANDUM OF LAW IN SUPPORT OF MOTION TO  
DECERTIFY CLASS AND SEVER CLAIMS.

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**INTRODUCTION.**

Plaintiffs, acting for themselves and on behalf of those allegedly similarly situated, initiated this action against Equity Group-Eufaula Division LLC ("Equity"), alleging violations of the Fair Labor Standards Act ("FLSA") for uncompensated time related to donning and doffing sanitary clothing.

On October 27, 2007, this Court conditionally certified this case to proceed as a collective action pursuant to 29 U.S.C. § 216(b), and granted Plaintiffs' Motion for Court Approved Notice. [See App., Tab 3 (Memorandum Opinion and Order).] In the Court-authorized Notice sent to present and former Equity employees, the class was defined as:

"[a]ll similarly situated current and former hourly paid 1st and 2nd processing production employees, paid under a 'line time' or 'master time' system, or whose individual time clock punches were not the basis for hours worked, of EQUITY at any time within the past 3 years...." [See App., Tab 4 (Notice of Pending Fair Labor Standards Act Lawsuit).]

However, this Court adopted the two-tiered approach to certification under Section 216(b), as announced by the Eleventh Circuit in Hipp v. Liberty National Life Insurance Co., 252 F.3d 1208, 1218-19 (11th Cir. 2001). Hence, the Court properly noted that, "[b]ecause this determination is necessarily made at the early stages of litigation and the court has minimal evidence, this determination [of "similarly situated"] is made using a fairly lenient standard. Hipp, 252 F.3d at 1218." [App., Tab 3 (Memorandum Opinion and Order) at 2.]

The record, as fully developed, now demonstrates that the over 800 plaintiffs are not "similarly situated." Decertification is appropriate given the widely divergent pay practices between the departments within the putative class, including persons who are not paid on the basis of "line time" or "master time."<sup>1</sup> Moreover, employees within the putative class have testified to (i) varying claims for relief beyond and unrelated to that encompassed by the donning and doffing claims set forth in the First Amended Complaint and (ii) widely varying items of sanitary clothing required to be worn. Finally, the putative class contains plaintiffs who, by definition, are outside the class; are not covered by a collective bargaining agreement; or never even worked for Equity.

Although the class ostensibly is narrowly defined, it has become infected with plaintiffs asserting diverse claims for relief and other elements which clearly render the class members not similarly situated. In lieu of policing the class, plaintiffs' counsel has accepted these disparate elements into the class and advocated on their behalf throughout the discovery process, including presenting them for deposition. On these grounds, the Court should grant Equity's Motion to Decertify. Indeed, on the basis of a virtually identical factual record, the District Court, in Anderson v. Cagle's, Inc., 2005 U.S. Dist. LEXIS 41747 (M.D. Ga., December 8, 2005), aff'd, 488 F.3d 945 (11th Cir. 2007), cert. denied, 128 S.Ct. 2902, 2008 U.S. LEXIS 4743 (June 9,

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<sup>1</sup>For example, employees in the Sanitation Department are paid on an incentive-based pay system, that is, they are paid for eight hours regardless whether they actually work a full eight hours. [App., Tab 7 (Stevens Affidavit), ¶ 14.]

2008) ("Anderson"), granted the employer's motion to decertify in that donning and doffing case:

"Where, as here, a tenuous second-stage class exists, it has been found that fairness and procedural considerations supported decertification of the class.... [A]s Defendants have demonstrated through extensive and contentious discovery, Plaintiffs are not 'similarly situated'.... Named Plaintiffs essentially employed by a single employer, based on the discovery before the Court, cannot fairly and adequately represent the variously assigned employees, the wide variety of work assignments and varied compensation structures affecting the purported class. Therefore, decertification is warranted." [App., Tab 8 (Order (3/31/05)) at 12.]

The Eleventh Circuit affirmed: "the district court's decision to decertify the collective action based on the distinctions noted in its opinion does not constitute legal error" and "the district court did not abuse its discretion when it decertified the collective action." 488 F.3d at 954.

#### **PROCEDURAL BACKGROUND.**

A total of 231 plaintiffs filed their Complaint on December 5, 2006. On February 22, 2007, following the filing of Equity's Answer (denying all liability) to their Complaint, plaintiffs filed a Motion for Leave to File Amended Complaint, which was granted. Plaintiffs' Amended Complaint was filed on March 14, 2007, to which Equity responded by denying all liability. Plaintiff's First Amended Complaint defined "[t]he potential class of 'opt-in' employees" as follows:

"All current and former hourly 1<sup>st</sup> and 2<sup>nd</sup> processing employees of

Defendant, paid under a master time compensation system in which individuals' time card punches are not the basis for starting and ending hours worked, who worked at the Baker Hill facility since **December 2, 2003**, and who were not paid for all the time spent performing compensable work-related tasks or legally compensable time, including, but not limited to authorized unpaid break times, donning and doffing times, washing activity times, time associated with passing through security check points and walking to changing areas and time walking to security and passing through security at the end of the day and walking times to and from break areas or donning and doffing areas, and including time compensable at regular hourly wages, as well as overtime pay for these employees." [App., Tab 1 (First Amended Complaint), ¶ 16.]<sup>2</sup>

On May 10, 2007, plaintiffs filed their Motion for an Order Permitting Court Supervised Notice to Employees of Their Opt-In Rights. [App., Tab 2.] In their Motion, plaintiffs again made clear that the potential class of opt-in employees was limited to "1st and 2nd processing employees." [Id. at 6.] In its October 24, 2007, Memorandum Opinion and Order granting plaintiffs' Motion, this Court noted that "[t]he Plaintiffs seek to form a class of all Equity Group Eufaula Division Baker Hill Plant hourly 1st and 2nd processing production employees." [App., Tab 3 at 3.] Accordingly, the Notice of Pending Fair Labor Standards Act Lawsuit sent to potential opt-in employees contained the following Court-approved language defining the class:

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<sup>2</sup>Equity's "1st and 2nd processing employees" work in the Evisceration and Debone Departments of the Fresh Plant.

"IF YOU ARE OR WERE EMPLOYED, SINCE MARCH 12, 2004, AS AN HOURLY PAID 1<sup>ST</sup> [EVisCERATION] OR 2<sup>ND</sup> [DEBONE] PROCESSING PRODUCTION EMPLOYEE AT EQUITY GROUP EUFAULA DIVISION, LLC, IN BAKER HILL ALABAMA, AND PAID ACCORDING TO 'LINE TIME', 'MASTER TIME', or your individual time clock punches were not the basis for calculating your hours worked, A COLLECTIVE ACTION LAWSUIT MAY AFFECT YOUR RIGHTS."

### **FACTUAL BACKGROUND.**

#### **A. Poultry Processing Operations.**

Equity's poultry processing operations generally are organized into departments, each of which performs discrete functions either on the ultimate product (chicken meat) directly, such as evisceration (1st processing) and debone (2nd processing), or on a general plant-wide basis, such as Shipping, Quality Assurance and Sanitation. Although subject to divergent pay and timekeeping practices, the putative opt-in plaintiff class is drawn from virtually every department and function performed at Equity's Eufaula facility.

In general, chicken meat processing at Equity is accomplished through the following departments:

- Live Receiving: Live birds are unloaded from trailers and cages and hung on the processing line conveyer where they are immediately slaughtered. [App., Tab 7 (Stevens Affidavit), ¶ 7.]
- Evisceration (First Processing): The slaughtered birds are defeathered, trimmed, eviscerated and inspected in preparation for chilling and further processing. [Id.]
- Debone (Second Processing): The poultry carcasses are skinned, deboned and reduced to various cuts in preparation for further processing at Equity or other facilities. [Id.]

- Further Processing ("Cook Plant"): Chicken parts undergo various processes (e.g., marination, breading, cooking, form cutting) in preparation for packaging and shipment to the customer. [Id.]
- Pack-Off: Product is boxed, wrapped, weighed and moved to shipping. [Id.]

The putative plaintiff class includes employees from each of these departments despite the Court's more limited Order.

Plant-wide operations are performed by three additional departments:

- Sanitation: A separate shift responsible for cleaning the entire facility in preparation for the resumption of poultry processing. [Id., ¶ 8.]
- Quality Assurance: Product is inspected for wholesomeness and conformity to customer specifications. [Id.]
- Shipping: Raw materials are received in refrigerated trailers and placed into refrigerated coolers and the process is reversed for finished product. [Id.]

Employees from each of these departments also have been joined in this action. In addition, there are plaintiffs from other departments and areas of the overall integrated operation, such as the Hatchery (Larry Bryer, Andrea Paige, Larry Thomas); Purchasing (Marcia Pritchett); Live Haul Trucking (Israel Hill, Jr., Willie Glenn); Janitorial (Janet Dunwoody, Laura Jones, Lorenzo Lewis, Rebecca Person); Knife Room (Marvin McElroy, Norma Ivory, Willie Smith); Environmental (William Horton); Cookplant Shipping (Darryl Bletcher, James Fenn, Anthony McKinnon, Michael Morris, Juanita Parham, Jeremiah Scott); Box Room (Courtney Jordan, Carter Hamm, Jeffery Strong, Jr.); Plant General (Edmund Chester, Evelyn Lampley, Nicholas Manuel, Cyril Market, Catherine Thompkins, Denise Williams, Vernie Williams, Hubert Davenport,



Albert Williams, Jr., George Davis, Joseph Davis, Archie Guilford, Allen Holloway and Salvador Yepiz); and Paw Room (Katherine Bennett, Sharon Billins, Alnisia Brinson, Billy Brown, Lula Gordy, Shawtoca Hilton, Arnie Johnson, Cassandra Kennedy, Antoine Louder, Felicia Russaw, Willie Turner, Shavonne Williams). [App., Tab 7 (Stevens Affidavit), ¶ 29.]

# **1. Methods Of Compensation.**

As noted, the overall pay practices vary among Equity's various departments. In general, the Evisceration and Debone Departments are paid according to "line time," that is, time actually worked measured from a specified start time, when the first piece of product is scheduled to arrive at the first position on that line, until the last piece of product actually passes the first position on that line, less time for scheduled breaks (for these employees, two 30 minute breaks). [Id., ¶ 10.] In addition, some production employees in these departments have responsibility for set-up or related work before regular production or work after regular production. These employees are paid from that start time, which is noted and recorded by line supervisors in the "KRONOS" system.<sup>3</sup> [Id., 11.] If an employee is asked to report early or stay late for work, that start time or end time is recorded by the supervisor. If an employee in Evisceration or Debone reports late to work or leaves early, that is also recorded by the supervisor, and the KRONOS clock-in or

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<sup>3</sup>KRONOS is a computerized system used for recording time, attendance and computing hours worked. Production employees generally "swipe-in" or "swipe-out" through the KRONOS system when they arrive at and leave the plant at one of several KRONOS clocks located in the plant. The KRONOS system generally is used for recording attendance and, in conjunction with written entries recorded by line supervisors, for computing hours worked by employees paid according to "line time." [App., Tab 7 (Stevens Affidavit), ¶ 12.]

clock-out time is used for that employee's start or end time. [App., Tab 44 (Preston Dep.) 73:4-7; App., Tab 39 (Mills Dep.) 121:9-18.]

Employees in the Sanitation Department, however, are compensated under an incentive-based pay system and paid for 8 hours daily, even if they work less than 8 hours. If a Sanitation employee works more than 8 hours, he or she generally is paid overtime for any time over 8 hours, which is recorded by the supervisors. Sanitation employees do not generally take "scheduled" breaks. [App., Tab 7 (Stevens Affidavit), ¶¶ 14-15.]

Employees in the Shipping Department and Quality Assurance work set scheduled shifts, the hours of which are entered into the KRONOS system (subject to supervisory edits as may be required). [Id., ¶ 16.]

Hatchery employees are not even part of the production process, work at a different facility and are paid based on hours worked as recorded on individual time cards.<sup>4</sup> [Id.] Truck drivers and office workers are paid "clock-to-clock" or directly from the KRONOS system. [Id., ¶ 18.]

Although the production and sanitation employees are represented by the Retail and Wholesale Department Store Union, Alabama & Mid-South Council ("RWDSU") for purposes of collective bargaining, other "opt-in" plaintiffs, including hatchery workers, Quality Assurance, truck drivers and clerical, have no

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<sup>4</sup>Hatchery employees ensure that the eggs laid at contract breeder farms are properly hatched and that the chicks are cared for until transported to a broiler farm where the birds are raised for slaughter. [App., Tab 7 (Stevens Affidavit), ¶ 9.] As such, hatchery workers are not subject to the FLSA. See 29 U.S.C. § 213(a)(6).

union representation and do not generally work at the processing plant. [Id., ¶¶ 19-20.]

## **2. Required Items Of Clothing.**

The precise nature of an employee's job dictates what items of clothing may be required, if any at all. [Id., ¶ 21.]

Employees who work inside Equity's production facility only are required to wear a smock, hairnet/beardnet and ear protection.

[Id., ¶ 21.] In addition, production and sanitation employees are required to wear "non-slip" footwear of their choice, which can be worn to and from the plant. [Id., ¶ 22.] Maintenance workers are required to wear steel-toed boots, as needed, which most wear to and from the plant. [Id.]

In addition to these items, production employees in the Evisceration and Debone Departments whose particular job requires the use of a knife are also required to wear plastic armguards and a steel mesh glove (which is distributed and put on while the employee is on the production line and being paid, and maintained and washed by Equity). [Id., ¶ 23.] Employees who work in Further Processing and physically handle the chicken product are required to wear rubber gloves. [Id., ¶ 24.] Optional clothing items are made available for the employees, if requested, and include blue plastic aprons and sleeves, cotton and heavy rubber gloves and safety glasses. [Id., ¶ 25.]

Employees in the Sanitation Department (in addition to the smock, hair-beardnet and ear protection) are issued bump caps, rainsuits, heavy rubber gloves (if working with chemicals) and safety goggles. [Id., ¶ 26.] They are paid for a guaranteed 8

hours even if they complete their work in less than 8 hours, or overtime if they work more than 8 hours. [Id., ¶ 14.]

Employees in the Shipping Department (in addition to the smock, hair-beardnet and ear protection) are issued bump caps and safety goggles (although not always required to be worn), as well as cold weather gear as may be needed in a refrigerated environment. [Id., ¶ 27.] Hatchery employees are only required to wear non-slip shoes, but ear plugs are required in designated "high noise" areas. [Id., ¶ 28.]

**B. Plaintiffs' Disparate Claims For Relief.**

While plaintiffs' First Amended Complaint alleges only FLSA violations for uncompensated time related to donning and doffing sanitary clothing, discovery has revealed that numerous plaintiffs are asserting claims for allegedly uncompensated time which are not based on or in any way related to donning and doffing issues.

Numerous plaintiffs are asserting claims for actual production work performed on the production line. Thus, plaintiff Caroline Turner claims she was not paid for actual production work on the "DSI" line:<sup>5</sup>

"Q. What's your understanding as to your claim in this lawsuit?

"A. It's back pay that we should have got and we didn't.

"Q. Back pay for doing what?

"A. For work and stuff that we did and we didn't get paid.

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<sup>5</sup>DSI is a "portioning department" which is "separate from the deboning department." [App., Tab 51 (Stevens Dep.) 30:10-12.]

"Q. What work do you believe you performed for which you weren't paid?

"A. Being on the line, being working, and we're not getting paid for it.

"Q. Actual production work?

"A. Right.

"Q. Production work on the DSI line?

"A. Yes, sir.

"Q. Putting the chicken up on the belt?

"A. Yes, sir.

"Q. You believe that you were doing that job for hours for which you weren't paid?

"A. Right." [App., Tab 53 (C. Turner Dep.) 13:10-14:6.]

Similarly, plaintiff Kendrick Lanan Spann testified:

"Q. What is your understanding as to what the lawsuit is about?

"A. It's about back time."

\* \* \*

"Q. Are there any particular activities that you are claiming you should have been paid for?

"A. Overtime.

"Q. And are you claiming that you stayed late at work and you weren't paid for that?

"A. Yes.

"Q. And what caused you to stay late at work?

"A. I worked on the rehang table; you have to stay late to make

combos and clean up and everything." [App., Tab 50 (K. Spann Dep.) 10:16-18, 10:23-11:9.]

Plaintiff Ebone Morris was equally clear as to what she is claiming:

"Q. Now, when you talk about these issues of wanting to get paid for time when you're working but not being paid, can you explain to me what you mean by that?

"A. When it's time for us to get off, we're still on the line working; they have already stopped our time, but we're still working.

"Q. Can you give me an example of what you mean by that?

"A. I'm still on the line working. Birds are still coming and we're still working, but they have already stopped our time. They have already clocked us out." [App., Tab 41 (E. Morris Dep.) 12:4-16.]

Other employees testified to similar claims being asserted which are wholly unrelated to donning and doffing. [See, e.g., App., Tab 26 (P. Jones Dep.) 15:1-4 ("Q. So your claim is that after the master timecard was swiped, you were still required to be working on the line? A. If you weren't finished, you were."); App., Tab 38 (R. Merrill Dep.) 10:21-11:1 ("But I do different jobs. So if I'm doing different jobs, I should be getting paid for those jobs because I was only assigned to one.")].]

Even in the face of plaintiffs' counsel's objection that plaintiffs were giving only "a lay opinion" and that there may be "other legal things" at issue that are not understood, it is abundantly clear that plaintiffs themselves know precisely what they are seeking:

"Q. Do you have an understanding of what it is that you, as a plaintiff in this lawsuit, are seeking to recover?

"A. I guess being paid for the time that I worked, like, overtime or whatever and wasn't paid; like a break.

"Q. Can you describe for me what you mean when you say you were working overtime?

"A. Well, a lot of time you would work overtime and you didn't get paid.

"MS. MCGOWAN: I'm going to object that, you know, she's not a lawyer, that this is a lay opinion. She can give you her best understanding. There may be other legal things that she's entitled to that she doesn't understand.

"MR. GOULD: That's fine. I understand your objection."

\* \* \*

"Q. ...What specific things are you talking about when you're saying that you worked overtime?

"A. You know, like, worked like an hour or two overtime or whatever; and everybody else gone home and you're still working, but you don't get paid for it. The shift is over, but you're still working."  
[App., Tab 9 (M. Allen Dep.) 53:10-54:4, 54:14-20.]

[See also App., Tab 40 (S. Moore Dep.) 14:14-20, 15:17-16:4

(claiming recovery for unpaid work at debone wash station washing product after the "master card" is swiped).]

Some plaintiffs are asserting claims for preliminary or "set up" time, work performed before actual production starts. For example, Marcus Rice testified as follows as to his claim as a

line leader on the "rehang" line:

"A. ...[T]he shift was supposed to start at 7:30. Sometimes I got there earlier so I can set up all the departments that I had that I supposed to cover. So sometimes I started early, but I don't think I got paid for it though."

\* \* \*

"Q. You're telling me that you had to do certain job functions in order to prepare the rehang area for the start of production?

"A. Right.

"Q. And are you telling me that you weren't paid for those?

"A. No.

"Q. And is that part of your claim in this case?

"A. Right." [App., Tab 46 (M. Rice Dep.) 12:6-11, 12:15-13:1.]

Similarly, plaintiff Monroe McCall is asserting a claim for allegedly unpaid work he performed driving a "spotter" truck to move loads of birds in the yard outside of the production facility:

"Q. ...You say when you were a spotter you were out moving trucks around ten minutes before your start time, and you say you weren't paid for that?

"A. No.

"Q. Is that part of your claim in this lawsuit?

"A. Yes, that is a lot of it, too." [App., Tab 36 (M. McCall Dep.) 27:14-20.]

Other plaintiffs are asserting claims for time spent



performing "exercises" designed to loosen up hands and shoulders.<sup>6</sup> For example, plaintiff Terrance Jackson testified to mandatory participation in an "exercising program" where he "did something with [his] hands and [his] shoulders and [his] neck," for which he is seeking compensation in this litigation:

"Q. ...Are you claiming in this case that you were not paid for those exercises, for the time it took you to do those exercises?

"A. Yes, sir.

"Q. And that's part of your claim in this case?

"A. Yes, sir." [App., Tab 22 (T. Jackson Dep.) 36:14-21.]

Numerous other plaintiffs, under questioning by plaintiffs' counsel, testified to these required, pre-production "exercises." [See, e.g., App., Tab 28 (T. Kennedy Dep.) 34:5-12; App., Tab 48 (R. Shaw Dep.) 58:14-59:6; App., Tab 43 (M. Person Dep.) 48:19-49:19; App., Tab 11 (P. Burks Dep.) 59:19-61:15; App., Tab 29 (S. Kinsey Dep.) 45:5-20; App., Tab 35 (A. March Dep.) 50:14-51:19.]

Plaintiff Evelyn Lampley testified to "exercises" led by her supervisor (before production starts) in response to questions posed by her counsel. [App., Tab 30 (E. Lampley Dep.) 37:14-38:9.] When Lampley was asked by counsel for Equity whether these "exercises" were part of her claim, plaintiffs' counsel

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<sup>6</sup>Equity management representatives testified that, in the past, employees on the debone lines performed mandatory exercises to "loosen up" hands and shoulders, which exercises were performed "on the clock" and "after the [production] line was started." [App., Tab 39 (G. Mills Dep.) 157:8-18; App., Tab 51 (R. Stevens Dep.) 158:17-21.] Plaintiff Anthony March concurred, testifying that the exercises were performed "while the birds are coming" and after the master card was swiped. [App., Tab 35 (A. March Dep.) 53:11-13.]

interrupted that he would "answer that for them" and stated: "[w]e do not know at this time, so we cannot answer as to whether we were making a claim for it." [Id. at 39:8-12.]

As only a sampling of the over 800 Equity plaintiffs were deposed, it can be reasonably assumed that many others in the putative class have claims for relief similar to these individuals, claims that are wholly divorced from and unrelated to the donning and doffing issues raised in the Amended Complaint and described in the conditional collective action certification. Accordingly, the class cannot be considered "similarly situated."

### **C. Disparate Pay Practices.**

There also exist widely divergent pay practices among the various departments ostensibly within the class, including persons who are not paid on the basis of line time.<sup>7</sup> As noted, employees in the Sanitation Department are paid on an incentive-based pay system, i.e., they are paid for eight hours regardless of whether they actually work a full eight hours. [App., Tab 7 (Stevens Affidavit), ¶ 14.] Nevertheless, a number of opt-in plaintiffs who have filed Consents to Join in this litigation are sanitation employees, including: Danyel Brown, Shannon Burks, Kimberly Griffin, Talyia Jackson, Michael Johnson, Anthony Scott and Maurice Womack. [Id., ¶ 29.]

Other ostensible plaintiffs are paid on the basis of "clock in to clock out." Thus, plaintiff Antonio Pearson worked in

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<sup>7</sup>In some cases, line time and clock in-clock out methods of compensation may be mixed, as Fresh Plant Plant Manager Robin Stevens noted: "Specific departments are set up on master cards, but then a supervisor would designate employees to be on a clock-in/clock-out, if they were a setup person or somebody stayed late." [App., Tab 51 (Stevens Dep.) 43:9-16.]

shipping, loading and unloading boxed product from refrigerated trailers and moving it from the dock to coolers and back. [App., Tab 42 (A. Pearson Dep.) 9:7-10:5.] Pearson testified that he was paid from 8:30 a.m. to 5:30 p.m. on the basis of "clock in to clock out:"

"Q. What was your understanding as to how the company kept track of your time?

"A. By me clocking in and out."

\* \* \*

"Q. ...Was it your understanding, Mr. Pearson, that the time for which you were paid was computed based on when you swiped in at 8:30 in the morning and then when you swiped out at 5:30 in the afternoon?

"A. Yes."

\* \* \*

"Q. ...And were you told that?

"A. Yes." [Id., 28:11-13, 28:20-29:6.]<sup>8</sup>

Similarly, Samuel A. Shabazz, another plaintiff, worked in shipping, loading product to and from cold storage and refrigerated trucks on the loading dock. [App., Tab 47 (S. Shabazz Dep.) 12:13-13:10, 15:1-15.] Shabazz' hours of work were from 12 midnight, when he swiped his timecard in, until 8:00 a.m., when he swiped out. [Id. at 14:15-9, 25:20-21.] According to Shabazz, he was paid on the basis of "clock in to clock out"

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<sup>8</sup>Pearson also testified that he sanitized his boots after he swiped in at 8:30 a.m. and before he swiped out at 5:30 p.m. [App., Tab 42 (A. Pearson Dep.) 35:17-22.]

time.<sup>9</sup> [Id. at 59:21-60:8.]

Although Pearson and Shabazz were the only plaintiffs who worked in Shipping that were deposed, a multitude of additional plaintiffs filing Consents to Join are or were employed in the Shipping Department, including Danny Chambers, Ulysses Dickey, Jr., Walter Ellis, Napoleon Glenn, Ray Glenn, Michael Johnson, Charlie Lohman, Nakia Lynn, Leon Lyons, James McCray, Tony Newman, Rodney Pugh, Traviston Rogers, Dornal Whigham, John Whigham, Charlie Wiggins and Don Williams. [App., Tab 7 (Stevens Affidavit), ¶ 29.]

An additional group of plaintiffs (numbering at least 15) work now or formerly in Quality Assurance ("QA"). These employees are paid on the basis of their own individual time punches, as confirmed by plaintiff Larry Thomas, Jr.:

"Q. And in your job in QA, do you have an understanding as to how you are paid? Are you paid from clock-in to clock out?

"A. Yes, sir." [App., Tab 42 (L. Thomas Dep.) 9:7-10.]

Although Thomas testified that he was not asserting a claim for the period of time he worked in QA [id. at 10:23-11:8], plaintiffs' counsel (P. Mark Petro, Esquire) disagreed: "just for the record, there was some discussion about him being in the QA department and whether or not he's entitled to make a claim for donning and doffing. And I'm just saying we're not agreeing with

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<sup>9</sup>Working in shipping, Shabazz did not wear any kind of plastic apron or sleeves, nor did he wear a chain glove, earplugs or bump cap. [App., Tab 47 (S. Shabazz Dep.) 32:8-33:1.] When he went on break, Shabazz did not have to wash his hands or otherwise use a wash station for any purpose. [Id. at 54:21-55:1.]

you.” [Id. at 29:4-9.] Counsel for Equity then sought and received confirmation of plaintiffs’ position:

“MR. GOULD: So you’re saying that despite his statement that he is not asserting a claim for the period of time that he’s working in QA, despite that admission, you’re claiming that you still are?

“MR. PETRO: Right.” [Id. at 30:3-8.]<sup>10</sup>

The deponent then reversed himself and stated that he was, in fact, asserting a claim “in this lawsuit for activities done while you were working in a QA position?” “Yes, sir.” [Id. at 31:9-11.]

Plaintiff Salintha Foster testified that one of the jobs she held was that of a “pallet ticket writer” in the Evisceration Department, responsible for printing out labels from the box room and correctly labeling boxes of product. [App., Tab 16 (S. Foster Dep.) 11:18-12:4.] Foster was paid on a “clock in to clock out” basis. [Id. at 17:13-16.]

#### **D. Disparate Union Status.**

One of Equity’s primary defenses to plaintiffs’ claims in this case is Section 3(o) of the FLSA, 29 U.S.C. § 203(o), which essentially excludes from compensation time spent “changing clothes or washing” where the affected employees are covered by a collective bargaining agreement. Although all of Equity’s

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<sup>10</sup>This exchange is telling and, in and of itself, demonstrates why Equity’s Motion to Decertify must be granted. QA employees are not paid on the basis of line time (nor are they deemed “production employees” under the applicable labor agreements) and, hence, are clearly not within the class as defined by the Court-approved Notice sent to present and former Equity employees. Nevertheless, despite this fact, QA employees (and other disparate elements) have opted into this litigation and their claims are actively being prosecuted by plaintiffs’ counsel with full knowledge that they do not belong.

"production employees" are covered by a collective bargaining agreement, not all of the putative plaintiffs are included in the bargaining unit. Specifically, "Quality Assurance" and "HACCP" positions are explicitly excluded from coverage in the applicable collective bargaining agreements.<sup>11</sup> [See App., Tabs 5, 6 (Collective Bargaining Agreements effective 3/1/08-3/1/11 and 3/1/04-3/1/08); App., Tab 39 (Mills Dep.) 128:9-11.]

Two plaintiffs, Renata Fuller and Patricia Jones, testified that they were employed as HACCP techs during at least part of their time at the facility. [App., Tab 17 (R. Fuller Dep.) 10:10-12; App., Tab 26 (P. Jones Dep.) 8:9-9:7.] Additionally, plaintiffs Anthony Davis, Teresa Davis, Jerry Rumph and Sharon Womack are current HACCP techs. [App., Tab 7 (Stevens Affidavit), ¶ 29.] Moreover, a number of plaintiffs are Quality Assurance ("QA") employees, including Kimberly Adams, Tina Burnett, Shawanda Griffin, Jennifer Johnson, Marlana Johnson, Ashlee Jones, Sheila Jones, Shaleatha King, Bernadetta Lewis, Katrina Lynn, Dana McKinnes, Jeannette Porter, Johnnie Posey, Bobby Weems and Eric Williams. [Id., ¶ 29.] All of these plaintiffs are excluded from coverage of the relevant collective bargaining agreements, giving rise to various, conflicting defenses.<sup>12</sup>

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<sup>11</sup>"HACCP" is an acronym for Equity's Hazard Analysis Critical Control Point program, designed to prevent contamination of poultry products. [App., Tab 39 (Mills Dep.) 68:21-69:6.]

<sup>12</sup>Additionally, hatchery workers, as "agricultural" employees, are excluded from coverage under the FLSA and, as "agricultural laborers" are excluded from coverage under the National Labor Relations Act. See 29 U.S.C. § 213(a)(6) and 29 U.S.C. § 152(3).

**E. Outside The Defined Class.**

Equity's Eufaula production facility is comprised of two separate processing plants -- the Fresh Plant and the Further Processing Plant. [App., Tab 7 (Stevens Affidavit), ¶ 4.] Live birds arrive at the Fresh Plant and are slaughtered in its First Processing ("Evisceration") Department and deboned in the Second Processing ("Debone") Department. [App., Tab 1 (First Amended Complaint), ¶¶ 9-11; App., Tab 7 (Stevens Affidavit), ¶ 7.] Plaintiffs made clear that the proposed FLSA class only includes former and current Equity "1st and 2nd processing employees," which limits the scope of the claims to the Fresh Plant:

"Hourly processing employees primarily work in 1st processing where chickens are placed or hung on lines, killed, disemboweled, inspected, diseased parts are removed or trimmed, cleaned and chilled or 2nd processing where chickens after completing 1st processing are placed or hung on lines and are further processed, cut-up, marinated, deboned, weighed, sized, packed, loaded on trucks, etc. for delivery to plant customers." [App., Tab 2 (Plaintiffs' Motion for an Order Permitted Court Supervised Notice at 6).]<sup>13</sup>

Equity's DSI, Shipping, QA, HACCP and Maintenance Departments are not part of the Evisceration or Debone Departments, even to the extent that such employees work in the Fresh Plant. [App., Tab 39 (Mills Dep.) 130:13-19.]

More critically, a review of the plaintiff class discloses

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<sup>13</sup>See also App., Tab 4 (Notice of Pending Fair Labor Standards Act Lawsuit) ("all similarly situated current and former hourly paid 1st and 2nd processing production employees....").

that counsel for plaintiffs accepted into the class (at least) over 45 plaintiffs who work in the Further Processing (or "Cook") Plant. Some of these plaintiffs have worked in the Cook Plant for a period of years [see, e.g., App., Tab 27 (A. Kennedy Dep.) 20:10-15], others for a lesser period of time. [See, e.g., App., Tab 45 (C. Reeves Dep.) 11:22-12:9; App., Tab 49 (R. Shorter Dep.) 17:5-9; App., Tab 13 (B. Darby Dep.) 9:18-10:3; App., Tab 20 (A. Ivery Dep.) 8:12-17.] Moreover, it is clear that these plaintiffs are asserting claims covering the time they worked in the Cook Plant. For example, plaintiff Coretta Reeves worked in the Cook Plant for over a year starting in 2003, left and then returned and worked for a period of two weeks in evisceration. Having worked for an additional period for Charoen Pokphand ("CP"), the prior owner of the facility,<sup>14</sup> Reeves is asserting claims for all three periods:

"Q. It is your understanding that your claim relates to all three periods in which you worked?

"A. Yes." [App., Tab 45 (C. Reeves Dep.) 13:18-21.]

Plaintiff Reeves illustrates an additional problem with the class as presently constituted -- it contains persons who worked for CP. Some of the plaintiffs worked only for CP -- and never for Equity:

"Q. And at the time you stopped working at the plant, do you have an understanding of the name of the company that was employing you?

"A. Charoen Pokphand." [App.,

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<sup>14</sup>Equity acquired the assets of CP in March of 2004. [App., Tab 7 (Stevens Affidavit), ¶ 3.]



Tab 12 (L. Corbitt Dep.) 12:8-11.]

[See also App., Tab 24 (D. Johnson Dep.) 7:23-8:2 ("Q. ...you never worked for Equity, did you? A. No.").] Others, like Reeves, worked at both facilities. In any event, it is clear that these plaintiffs are actually asserting claims for periods of time when they worked for CP, despite the fact that the purported class is limited to persons employed by Equity.<sup>15</sup>

**F. Widely Varying Items Of Sanitary Clothing.**

Employees in the putative class have testified to widely varying items of clothing which they wear. As a general matter, production employees in the Fresh Plant are required to wear a smock, boots or shoe covers, a hairnet/beardnet and ear protection. [App., Tab 7 (Stevens Affidavit), ¶ 21; App., Tab 41 (E. Morris Dep.) 28:8-14; App., Tab 18 (Glenn Dep.) 11:17-12:4; App., Tab 22 (T. Jackson Dep.) 13:13-19, 16:11-12; App., Tab 28 (T. Kennedy Dep.) 12:6-17; App., Tab 34 (Mahone Dep.) 14:12-20; App., Tab 31 (S. Lampley Dep.) 13:16-14:1.] Only those employees whose particular jobs require the use of a knife are required to wear arm guards and steel mesh gloves. [App., Tab 13 (Darby Dep.) 18:7-11; App., Tab 32 (F. Laseter Dep.) 22:11-21.] Optional clothing items made available for the convenience of the employees, if requested, include blue plastic aprons and sleeves, cotton gloves and safety glasses. [App., Tab 7 (Stevens Affidavit), ¶ 25; App., Tab 15 (K. Ford Dep.) 17:19-22; App.,

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<sup>15</sup>To emphasize again, work performed at Equity's Cook Plant or at CP is not encompassed within this class lawsuit -- as structured by plaintiffs themselves; yet, the plaintiffs asserting these claims are active participants in this proceeding and their interests are being advocated by their counsel, requiring decertification.

Tab 32 (F. Laseter Dep.) 20:8-21:20.] The depositions of the plaintiffs reveal wide variances applicable to even the foregoing general practices:

- Plastic sleeves are optional:  
 "[s]ome people wear sleeves and some don't." [App., Tab 32 (F. Laseter Dep.) 20:11-13; see also App., Tab 23 (A. Johnson Dep.) 15:3-13; App., Tab 15 (K. Ford Dep.) 17:19-22.]<sup>16</sup>
- HACCP techs in evisceration wear blue plastic aprons and sleeves but do not wear these items when working in the debone department. [App., Tab 26 (P. Jones Dep.) 39:7-14; App., Tab 17 (R. Fuller Dep.) 20:12-19.]
- Some employees in "packout" do not wear cotton gloves or sleeves. [App., Tab 21 (J. Jackson Dep.) 13:10-14:1.]
- Employees working at the "pallet ticket table" (where finished product is bagged, iced and placed on pallets) need not wear blue plastic gloves. [App., Tab 54 (L. Warren Dep.) 13:5-11.]
- Employees in "live hang" have the option of wearing cotton sleeves for their convenience. [App., Tab 33 (C. Laster Dep.) 23:4-14.]
- Employees working in cold storage areas do not wear

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<sup>16</sup>Indeed, within the class there are also widely varying and optional practices with respect to donning, washing and sanitizing. For example, employees in "live hang" are not required to sanitize their boots before entering their work area. [App., Tab 15 (K. Ford Dep.) 19:21-23.] When returning from break, some production line employees do not wash their aprons, sleeves and gloves [App., Tab 25 (J. Johnson Dep.) 30:7-17; App., Tab 14 (L. Delbridge Dep.) 41:12-42:1]; in fact, some production employees do not wash at all when going to break or coming off break. [App., Tab 37 (D. McNair Dep.) 48:1-12.] Some production employees don their smock and apron while walking to their work stations. [App., Tab 19 (A. Glover-Patrick Dep.) 24:18-25:2.] Employees in the Box Room do not wash anything at break times. [App., Tab 24 (D. Johnson Dep.) 22:9-15.]

aprons, sleeves, safety gloves  
or ear plugs. [App., Tab 47  
(S. Shabazz Dep.) 32:8-18.]

- Employees in the "Box Room"  
(where shipping boxes are made)  
wear only a smock, hair net and  
boots. [App., Tab 24  
(D. Johnson Dep.) 14:1-10.]
- Some employees in Shipping wear  
only their "regular clothes" on  
the job. [App., Tab 35  
(A. March Dep.) 18:23-19:6.]

Indeed, the plaintiffs are quite clear that employees may wear some or all, or various combinations of clothing depending on the nature of the department and specific tasks being performed by (or the personal preference of) the employee:

"Q. From what you were able to observe... did all the employees in the debone department at Equity wear these same items of clothing at Equity?

"A. No, sir.

"Q. What did you observe?

"A. It -- it depended on what work area they were working in. They didn't have to have on all of that." [App., Tab 10 (V. Avery Dep.) 14:21-15:7.]

\* \* \*

"Q. From what you were able to observe in the two years you worked there, did other employees with other different kinds of jobs wear different kinds of equipment?

"A. Yes." [App., Tab 42  
(A. Pearson Dep.) 13:22-14:3.]

\* \* \*

"Q. Does everybody in the debone room wear these items?

"A. No, sir.

"Q. Do some employees wear additional items depending on their job?

"A. Yes, sir." [App., Tab 53  
(C. Turner Dep.) 17:19-18:1.]

**A R G U M E N T**

**A. Plaintiffs Cannot Maintain This Action As A Collective Action Since They Have Failed To Demonstrate That They Are "Similarly Situated" Under Section 216(b) Of The FLSA.**

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The two necessary requirements for maintaining a representative action under the FLSA are that the class members must be "similarly situated" and that each absent class member file a consent to join the action. 29 U.S.C. § 216(b); Hoffmann-La Roche, Inc. v. Sperling, 493 U.S. 165, 110 S.Ct. 482 (1989). "The Eleventh Circuit requires a determination that persons are similarly situated 'with respect to their job requirements and with regard to their pay provisions' when deciding whether persons are similarly situated under the FLSA." Brooks v. BellSouth Telecommunications, Inc., 164 F.R.D. 561, 568 (N.D.Ala. 1995), aff'd without opinion, 114 F.3d 1202 (11th Cir. 1997) (citing Dybach v. State of Florida Dept. of Corrections, 942 F.2d 1562, 1568 (11th Cir. 1991)). Although the term "similarly situated" is not defined by the statute, numerous courts have construed the meaning of the term to require that plaintiffs be "all (1) employed in the same corporate department, division and location; (2) advance[ ] similar claims ... and (3) [seek] substantially the same form of relief." Lockhart v. Westinghouse Credit, 879 F.2d 43, 51 (3d Cir. 1989), overruled on other grounds as recognized by Starceski v. Westinghouse Electric

Corp., 54 F.3d 1089, 1099, n.10 (3d Cir. 1995); see also DeAsencio v. Tyson Foods, Inc., 130 F.Supp.2d 660, 662 (E.D.Pa. 2001) ("plaintiffs must: (1) be or have been employed in the same corporate department, division and location; (2) have advanced similar claims; and (3) have sought substantially the same form of relief") (emphasis added).

Courts have also recognized that something more than gross commonality is required to satisfy the "similarly situated" requirement. See Sheffield v. Orius Corp., 211 F.R.D. 411, 413 (D.Or. 2002) ("Putative class members must share more than a common allegation that they were denied overtime or paid below the minimum wage. The class members must put forth a common legal theory upon which each member is entitled to relief."). When "[t]he proposed opt-in class ... includes individuals who assert a variety of claims, many of which have not been asserted by the representative Plaintiff," decertification of a § 216(b) class is appropriate. Stone v. First Union Corp., 203 F.R.D. 532, 543 (S.D.Fla. 2001).<sup>17</sup>

At the second, post-discovery stage in Section 216(b) collective action proceedings, as adopted by the Eleventh Circuit in Hipp v. Liberty National Life Insurance Co., supra, "courts generally analyze the 'similarly situated' issue under a higher standard...." Thiessen v. General Electric Capital Corporation,

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<sup>17</sup>The District Court in Stone decertified the class at the second stage the Hipp two-tier analysis and the Eleventh Circuit denied plaintiffs' petition for permission to appeal the decertification order. Subsequently, the Stone plaintiffs sought leave to amend their complaint in order to meet the Section 216(b) certification standard and for leave to intervene. The District Court denied both motions but the Eleventh Circuit reversed the intervention denial. See Stone v. First Union Corp., 216 F.R.D. 540 (S.D.Fla. 2003), rev'd in part, 371 F.3d 1305 (11th Cir. 2004).

996 F.Supp. 1071, 1080 (D.Kan. 1998); see also Vaszlavik v. Storage Technology Corp., 175 F.R.D. 672, 678 (D.Colo. 1997) ("At this second stage, although not specifically defined, the 'similarly situated' standard is higher."). At this second post-discovery stage, the differences among the individual plaintiffs are analyzed -- with the benefit of full discovery -- along with other factors:

"Most district courts analyzing the 'similarly situated' requirement at the post-discovery stage focus on three factors in determining whether plaintiffs are similarly situated: (1) the disparate factual and employment settings of the individual plaintiffs; (2) the various defenses available to defendant which appear to be individual to each plaintiff; and (3) fairness and procedural considerations." Thiessen v. General Electric Capital Corporation, supra, 996 F.Supp. at 1081.

Accord Bayles v. American Medical Response of Colorado, Inc., 950 F.Supp. 1053, 1066 (D.Colo. 1996); Brooks v. BellSouth Telecommunications, Inc., supra, 164 F.R.D. at 568; Lusardi v. Xerox Corp., 118 F.R.D. 351, 359 (D.N.J. 1987), vacated in part and modified in part on other grounds by Lusardi v. Xerox Corp., 122 F.R.D. 463 (D.N.J. 1988). Analysis of these factors demonstrates that plaintiffs here are not "similarly situated," within Equity's facility, and decertification of the class is proper.

**1. Plaintiffs' Disparate Factual And Employment Settings.**

This purported collective action must be decertified because

the proposed plaintiffs work or have worked for different companies; work or have worked in a variety of different departments and jobs with different supervisors and different required items of clothing; and have asserted different claims from those asserted by the named plaintiffs in the First Amended Complaint.

In Lusardi v. Xerox Corp., supra, the District Court decertified a conditional class of salaried employees in an Age Discrimination in Employment Act ("ADEA") case due to "[t]he disparity and variety of individual situations." 118 F.R.D. at 357.<sup>18</sup> As the District Court noted, "[t]he discovery ... reveals a dramatic lack of similarity in age, salary, organization employment, and geographic location by state and city." Id. at 358. On remand, the District Court again decided to decertify the class:

"The members of the proposed class come from different departments, groups, organizations, sub-organizations, units and local offices within the Xerox organization. The opt-in plaintiffs performed different jobs at different geographic locations and were subject to different job actions concerning reductions in work force which occurred at various times as a result of various decisions by different supervisors made on a decentralized employee-by-employee basis. This case should not continue in a class status." 122 F.R.D. at 465.

Similarly, in Brooks v. BellSouth Telecommunications, Inc., supra, the District Court denied conditional certification in an

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<sup>18</sup>The ADEA incorporates the collective action enforcement provisions of the FLSA as set forth at 29 U.S.C. § 216(b).

ADEA action for former management employees of defendant located in all nine states where defendant operated:

"The discovery to date has already demonstrated that the employees plaintiff proposes to notify are not similarly situated to the plaintiff. As defendant points out, the [employees] cover all nine of the states in which defendant operates. These employees would therefore be located within separate departments and under separate supervisors. Additionally, the [employees] represent a wide span in ages ranging from forty to seventy-five. Also, the involuntarily dismissed employees represent a variety of 'pay grades.' Even at this stage, it is clear that any claims of the proposed opt-in plaintiffs would present disparate factual and employment settings." 164 F.R.D. at 569 (citations and footnote omitted).

In Harper v. Lovett's Buffet, Inc., 185 F.R.D. 358, 363 (M.D.Ala. 1999), servers at a Dothan, Alabama, chain restaurant sued their employer for violations of the overtime and minimum wage provisions of the FLSA. While the District Court conditionally certified a class of employees at defendant's Dothan facility, it refused to extend it to "individual employees who have worked at different restaurants, in different states, for different managers, and, most likely, in quite different working conditions." Id. at 363. See also Tucker v. Labor Leasing, Inc., 872 F.Supp. 941 (M.D.Fla. 1994) (in FLSA action, employees at truck terminals other than the terminal where named plaintiffs worked were not shown to be "similarly situated" to named plaintiffs as no evidence of similar job duties and responsibilities or similar pay provisions was presented).



Here, the putative plaintiffs work in various facilities (i.e., fresh processing plant, further processing plant, hatchery), in a variety of different departments and jobs (i.e., live receiving, evisceration, debone, further processing, pack-off, sanitation and shipping) and under a variety of pay provisions (line cards, individual time cards and guaranteed hours). See Anderson, supra, at 7 ("[t]here are no consistent or overall compensation methods between the various departments"). Moreover, all of the processing employees (debone, evisceration, live receiving, further processing, pack-out, sanitation and shipping), but not all of the plaintiffs, are covered by a collective bargaining agreement. [See App., Tabs 5, 6 (2004 and 2008 Collective Bargaining Agreements).]

Moreover, beyond the basic required items of clothing consisting of smock, hair-beard net and ear protection, the precise nature of an employee's job dictates whether additional items of clothing are required, if any at all. [See, generally, FACTUAL BACKGROUND, Part B(2), and F supra.] Thus, production employees who work with knives are required to wear plastic arm guards and mesh gloves; hatchery employees only are required to wear non-slip shoes.

Finally, while some of the plaintiffs assert FLSA violations for uncompensated time related to donning and doffing sanitary clothing, discovery demonstrates that a sizeable percentage of plaintiffs are asserting claims for allegedly uncompensated time which are not based on any donning and doffing issue as set forth in the First Amended Complaint. [See, generally, FACTUAL BACKGROUND, Part "B," supra.] Thus, there are claims for

allegedly unpaid time related to "exercises" [App., Tab 22 (T. Jackson Dep.) 34:8-36:21]; allegedly uncompensated pre-production time [App., Tab 46 (M. Rice Dep.) 12:2-13:1; App., Tab 36 (McCall Dep.) 26:19-27:6]; and, most predominant, allegedly uncompensated production time on the line. [App., Tab 53 (C. Turner Dep.) 13:17-14:6; App., Tab 50 (K. Spann Dep.) 10:16-11:5; App., Tab 41 (E. Morris Dep.) 12:4-17; App., Tab 26 (P. Jones Dep.) 14:17-15:6; App., Tab 38 (R. Merrill Dep.) 10:6-11:9; App., Tab 9 (M. Allen Dep.) 53:10-54:4, 54:14-20; App., Tab 40 (S. Moore Dep.) 14:14-20, 15:17-16:4.] Clearly, these individuals, representative of the whole collective group of plaintiffs, allegedly "were subject to different job actions... at various times as a result of various decisions by different supervisors" and cannot be deemed "similarly situated." Lusardi v. Xerox Corp., supra, 122 F.R.D. at 465.

Because it is clear, based on a full discovery record, that the plaintiffs' claims would present disparate factual and employment settings, plaintiffs cannot maintain this action as a collective action and the class should be decertified. Indeed, as the District Court held in Stone v. First Union Corp., supra, in granting defendant's motion to decertify a putative ADEA class of bank holding company employees:

"Upon review, the Court finds that maintenance of an ADEA collective action involving Plaintiff Stone and all 160 opt-in plaintiffs is inappropriate under the facts of this case. The proposed opt-in class mixes employees with different job titles and from all levels of the organization; includes individuals employed within different divisions of the

bank; includes individuals who assert a variety of claims, many of which have not been asserted by the representative Plaintiff; and fails to provide evidence of the application of an overriding discriminatory policy, practice, or procedure. Taken as a whole, the factors set forth above... weigh heavily in favor of decertifying the subject class." 203 F.R.D. at 543 (emphasis added).<sup>19</sup>

## **2. There Are Various, Differing Defenses Available To Defendant.**

Certification under Section 216(b) also is improper in that Equity will assert numerous individualized defenses with respect to the varied claims of the opt-in plaintiffs. Courts have denied certification after discovery due to potential defenses available to a defendant which cannot be addressed on a class-wide basis. See, e.g., Bayles v. American Medical Response of Colorado, Inc., supra, 950 F.Supp. at 1067 (decertifying class in FLSA action where case was "fraught with questions requiring distinct proof as to individual plaintiffs" and employer's defense "cannot be addressed on a class-wide basis"); Brooks v. BellSouth Telecommunications, Inc., supra, 164 F.R.D. at 569 (request for conditional class certification denied; "the court, if plaintiff's suggested class were certified, would be faced with numerous individualized defenses"); see also Thiessen v. General Electric Capital Corporation, supra, 996 F.Supp. at 1084 ("If defendants can truly convince the court that individual

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<sup>19</sup>The disparity in the wage claims asserted by plaintiffs unrelated to donning and doffing demonstrate the absence of "an overriding ... policy, practice, or procedure," in the circumstances presented here, to warrant proceeding to trial as a Section 216(b) class. See Stone v. First Union Corp., supra, 203 F.R.D. at 550 ("[t]he class members have brought numerous different types of claims....").

issues would predominate at trial, the contention that the opt-in plaintiffs are similarly situated would likely be largely eviscerated.”).

Thus, Equity will assert individualized defenses as to those employees who are compensated on the basis of a wage guarantee (e.g., Sanitation employees) or who work “clock-to-clock” (e.g., QA, Shipping, hatchery workers). Individualized defenses also will be asserted as to all employees who (for all or even a part of their employment period) were compensated by pay systems other than line time or while donning and doffing items of clothing worn by them, or who are not even subject to the FLSA.

Equity also will assert separate defenses as to each plaintiff who asserts a claim for “exercises” or working in live receiving or on the production line without, allegedly, receiving compensation for actual time worked (as opposed to doffing and donning), as many plaintiffs purport to do. Clearly, any claim premised on uncompensated time which is unrelated to doffing and donning will require individualized inquiries into work practices and supervisory decisions which cannot be addressed on a class-wide basis. See Stone v. First Union Corp., supra.

Finally, while Equity’s Section 3(o) defense is applicable to all plaintiffs covered by a collective bargaining agreement, other, additional defenses may be asserted as to those plaintiffs excluded from coverage (Quality Assurance, HACCP, Hatchery). This factor was deemed particularly significant by the Eleventh Circuit in affirming the District Court’s decertification of the class in Anderson:

“Among the numerous distinctions,

we find particularly important evidence that, unlike all of the named plaintiffs, many of the opt-in plaintiffs are not unionized. A key defense in this case, indeed the very defense that resulted in the district court granting summary judgment in favor of CFJV, requires the existence of a collective bargaining agreement. 29 U.S.C. § 203(o). Obviously... CFJV could not raise this defense against the non-union opt-in plaintiffs, a point that clearly undermines the appellants' contention that the named plaintiffs could adequately represent all of the opt-in plaintiffs. In addition, as a practical matter, the availability of defenses to some but not all of the putative class members 'clearly poses significant case management concerns'." 488 F.3d at 954, n.8.

### **3. Fairness And Procedural Considerations Mandate Decertification.**

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In Thiessen v. General Electric Capital Corporation, supra, the District Court provisionally granted Section 216(b) certification to an ADEA employee but invited a motion to decertify in order to address the Court's "particular concerns" as to the "disparate factual and employment settings" of the class, the "various defenses available to defendants" and "fairness and procedural considerations." As to the latter factor, the District Court warned:

"Finally, the court considers the fairness and procedural aspects of allowing this case to proceed as a collective action under § 216(b). Specifically, the court is concerned with coherently managing a trial of the action and presenting the evidence in a manner that will not confuse the jury or unduly prejudice any party. If the defendants actually do possess substantial evidence of bona fide

individualized defenses, the result may be such a mish-mash of highly detailed evidence that in a collective action both the defendants and the opt-in plaintiffs would run the risk of having any individualized consideration of the claims lost in the mire. There is simply a realistic limit on what a jury may reasonably be expected to absorb, retain and process -- and this case may be in danger of passing beyond that limit." 996 F.Supp. at 1084 (emphasis added).

In Bayles v. American Medical Response of Colorado, supra, in decertifying a putative class of ambulance service employees in an FLSA action, the District Court warned of jury confusion and prejudice to the defendant were the case -- "fraught with questions requiring distinct proof as to individual plaintiffs" as well as defenses which "cannot be addressed on a class-wide basis" -- tried as a collective action:

"In addition, there is a significant risk of prejudice to [defendant]. Even if it were possible to proceed efficiently with this case as a collective action ... a jury would be instructed, as a matter of law, that all members of the plaintiff class (or subclass) are similarly situated. [Defendant] would then be forced to argue to the jury that the plaintiffs, in effect, are not similarly situated, and some or all plaintiffs deserve no relief. A jury is likely to be confused. Indeed, a collective action is designed to permit the presentation of evidence regarding certain representative plaintiffs that will serve as evidence for the class as a whole. It is oxymoronic to use such a device in a case where proof regarding each individual plaintiff is required to show liability." 950 F.Supp. 1065 (emphasis added).

Here, discovery demonstrates that discrete, individual issues abound, whether related to the plaintiffs' disparate factual and employment settings or the various separate and individualized defenses available to Equity.

As the District Courts instructed in Thiessen v. General Electric Capital Corporation, supra, and Bayles v. American Medical Response of Colorado, supra, individualized and varied claims as well as separate defenses lead to jury confusion and prejudice to the defendant in cases tried as § 216(b) collective actions. Thus, Equity ought not be exposed to that prejudice through the "oxymoronic use" of the collective action in the circumstances of this case.

**B. As Plaintiffs' Claims Are Improperly Joined, The Named Plaintiffs' Claims Should Be Severed.**

In addition to decertifying the collective nature of this action, the Court should sever the named plaintiffs' claims and require that the severed plaintiffs proceed separately on those claims. Rule 20(a)(1), F.R.C.P., provides:

"(a) Persons Who May Join or Be Joined.

"(1) Plaintiffs. Persons may join in one action as plaintiffs if:

"(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

"(B) any question of law or fact common to all plaintiffs will arise in

the action."

Rule 21, F.R.C.P., provides the remedy for misjoinder of parties:

"Misjoinder of parties is not a ground for dismissing an action. On motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claims against a party."<sup>20</sup>

Here, as more fully described above, plaintiffs' disparate claims for relief, asserted within disparate factual circumstances relative to pay practices and union status, demonstrate the lack of any common transaction or occurrence sufficient to comply with Rule 20(a)'s permissive joinder standards. Further, claims for production work and "exercises" being made by some plaintiffs present questions of law or fact which are certainly not common to all plaintiffs. Similarly, claims asserted by plaintiffs who are outside the defined class, but whose interests are actively being advocated in this litigation, fall without the scope of permissive joinder. Accordingly, these claims must be dropped or severed. See, e.g., Black v. UnumProvident Corporation, 245 F.Supp.2d 194, 200 (D.Me. 2003) (In case involving class action against long-term disability insurance provider, court granted motion to sever: "[e]ach case is factually different and distinct, and relief for each Plaintiff depends on those wholly different factual scenarios."); Grayson v. KMart Corporation, 849 F.Supp. 785, 789

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<sup>20</sup>The 2007 amendments to Rules 20 and 21, F.R.C.P., were intended "to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only." See Advisory Committee Notes. Accordingly, case law construing the prior versions of these rules remains authoritative.



(N.D.Ga. 1994) (Where current and former employees brought age discrimination actions against employer, Court granted severance: "[t]he Court further finds that no common question of law or fact exists between the plaintiffs' cases, within the meaning of Rule 20(a).... [E]ach demotion decision affecting the plaintiffs in these cases was a discrete act by the defendant.");<sup>21</sup> Henderson v. AT&T Corporation, 918 F.Supp. 1059, 1064 (S.D. Tex. 1996) (In sex discrimination case where "Plaintiffs' claims in fact are highly individualized, involving particularized questions about each Plaintiff's work history and job performance," the "Court concludes that a severance of at least some of the Plaintiffs' claims is required in the interests of justice."). For the same reasons that decertification is appropriate, the originally named plaintiffs' claims must be severed and they be required to proceed individually.

#### **CONCLUSION.**

The District Court in Anderson concluded that "[t]he putative class is composed of disparate factual and employment settings and cannot continue as a collective action." [App., Tab 8 (Order 3/31/05) at 3.] Similarly here, as plaintiffs proffer a putative class composed of disparate factual and employment settings (as well as disparate claims for relief), which will be countered by Equity's individualized and separate defenses, this case cannot proceed as a collective action and the

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<sup>21</sup>The Grayson Court also determined that severance was proper in part because of the "tremendous danger that one or two plaintiff's unique circumstances could bias the jury against defendant generally, thus, prejudicing defendant with respect to the other plaintiffs' claims." 849 F.Supp. at 790.

putative class should be decertified, and the named plaintiffs' claims severed.

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Gary D. Fry  
Malcolm S. Gould  
Attorneys for Equity Group  
Eufaula Division, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA - NORTHERN DIVISION

BETTY ANN BURKS, et al., :  
 :  
 Plaintiffs, :  
 :  
 v. : No. 2:06-CV-1081-MEF  
 :  
 EQUITY GROUP EUFAULA :  
 DIVISION LLC, :  
 :  
 Defendant. :

**CERTIFICATE OF SERVICE**

The undersigned counsel for Equity Group Eufaula Division LLC certifies that true and correct copies of the Motion to Decertify Class and Sever Claims and supporting Memorandum of Law in Support of Motion to Decertify Class and Sever Claims were filed and served electronically with the Clerk of Court and also was served by depositing true and correct copies in the United States Mail, first class postage prepaid, on August 1, 2008, and addressed as follows:

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Attorneys for Equity Group  
Eufaula Division, LLC

**TAB 1**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA,  
MONTGOMERY DIVISION**

|   |          |                              |
|---|----------|------------------------------|
| <b>BETTY ANN BURKS, MITCHELL</b>        | <b>§</b> | <b>CIVIL ACTION NO.</b>      |
| <b>BURKS, TEMEKIA CALLOWAY,</b>         | <b>§</b> | <b>2:06-cv-01081-MEF-DRB</b> |
| <b>MARIE CHITTY, BARBARA ANN</b>        | <b>§</b> |                              |
| <b>DARBY, TRACY A. DAVIS, LAURIE T.</b> | <b>§</b> |                              |
| <b>DELBRIDGE, KENNETH FORD,</b>         | <b>§</b> |                              |
| <b>ALVIN FORTE, TERESA GLENN,</b>       | <b>§</b> |                              |
| <b>GLORIA GULLETTE, JIMMY</b>           | <b>§</b> |                              |
| <b>HAMILTON, ANNIE IVERY, TINESHA</b>   | <b>§</b> |                              |
| <b>S. JACKSON, ANNIE R. JOHNSON,</b>    | <b>§</b> |                              |
| <b>FELICIA LASETER, CHRISTOPHER</b>     | <b>§</b> |                              |
| <b>LASTER, ANTONIO LINDSEY,</b>         | <b>§</b> |                              |
| <b>ANTHONY B. MARCH, MARY</b>           | <b>§</b> |                              |
| <b>MARCH, MARK A. MARSH, MONROE</b>     | <b>§</b> |                              |
| <b>MCCALL, CHANDRA MCCRAY,</b>          | <b>§</b> |                              |
| <b>DOROTHY A. MCNAIR, DENISE</b>        | <b>§</b> |                              |
| <b>MCCRAY MITCHELL, BENJAMIN</b>        | <b>§</b> |                              |
| <b>PHILLIPS, MARCUS TERRELL RICE,</b>   | <b>§</b> |                              |
| <b>ERVIN SMITH, KENDRICK LANAN</b>      | <b>§</b> |                              |
| <b>SPANN, ANTHONY STREETER,</b>         | <b>§</b> |                              |
| <b>MARINE TILLER, ALBERT L.</b>         | <b>§</b> |                              |
| <b>WILLIAMS, JR., CHANDA YOUNG,</b>     | <b>§</b> |                              |
| <b>MARY LEE ALLEN, PATSY ANGLIN,</b>    | <b>§</b> |                              |
| <b>VIRGINIA AVERY, CORA L. BAKER,</b>   | <b>§</b> |                              |
| <b>LILLIE M. BANKS, MORRIS BANKS,</b>   | <b>§</b> |                              |
| <b>TAJUANA BASKIN, TERESA A.</b>        | <b>§</b> |                              |
| <b>BAXTER, ANNIE BEASLEY, JAMES C.</b>  | <b>§</b> |                              |
| <b>BEDELL, KIMBERLY BEDELL,</b>         | <b>§</b> |                              |
| <b>BETTY BIGGERS, KATINA BINION,</b>    | <b>§</b> |                              |
| <b>TRACY BINION, DOROTHY A.</b>         | <b>§</b> |                              |
| <b>BLACKMON, RENA BLACKMON,</b>         | <b>§</b> |                              |
| <b>WILLIE MAE BLACKMON, MARCUS</b>      | <b>§</b> |                              |
| <b>B. BLAIR, TASHEENA BONAPARTE,</b>    | <b>§</b> |                              |
| <b>KAREN BOWENS, JEFFERY BROOKS,</b>    | <b>§</b> |                              |
| <b>CHERANDA BROWN, DANYEL</b>           | <b>§</b> |                              |
| <b>BROWN, LARRY BRYER, FELICIA</b>      | <b>§</b> |                              |
| <b>BULLARD, PEARLINE BURKS,</b>         | <b>§</b> |                              |

SHANNON BURKS, SHARON I. BUSH, §  
 BRENDA L. CALHOUN, MICHAEL §  
 CANNON, ETHEL CARTER, §  
 VERNETTE CARTER, BRENDA §  
 CHAMBERS, DASHAWN CLARK, §  
 TOWANDER COLEMAN, LATOYA §  
 CORBITT, MATTIE COTTON, §  
 BERTHA L. CRAYTON, ANTHONY T. §  
 CULVER, TIFFANY CUNNINGHAM, §  
 LATONIA M. DAVIS, JOANN §  
 DENNARD, CHERRY A. DEVOSE, §  
 JENNIFER D. DIGGS, KAMILAH §  
 DUKES, MICHELLE R. DUMAS, §  
 KATRINA FAVORS, CHANDA L. §  
 FERGUSON, REGINALD FLOYD, §  
 SALINTHA FOSTER, SHERVONNE §  
 FOSTER, NICHOLAS L. FREEMAN, §  
 MARY LINDA FRYER, RENATA §  
 FULLER, ELIZABETH GAINER, §  
 CAMILLE A. GIPSON, CAROLYN §  
 CLANTON, TANGELA D. GLENN, §  
 WILLIE E. GLENN, ANNIE T. §  
 GLOVER, PATRICK THOMAS §  
 GOSHA, NAKEISHA GRAVES, §  
 ALFONZO GREEN, SR., ANDREW §  
 GRIFFIN, KIMBERLY GRIFFIN, MINA §  
 L. GUICE, ROBERT A. HAMILTON, §  
 BRIAN HANKS, JAMES HARRIS, JR., §  
 DENISE HARRIS WILSON, LARRY §  
 HICKS, SHERWANDA HUMBERT, §  
 WILLIE B. IVEY, ANDRE JACKSON, §  
 JOHNNY L. JACKSON, TERRANCE §  
 JASCKSON, MOLINDA J. JACOBS, §  
 MONICA JAMES, ANNIE D. JENKINS, §  
 LAWANDA JOHNS, BRENDA §  
 JOHNSON, CEDRIC D. JOHNSON, §  
 DERINDA JOHNSON, EDGAR §  
 JOHNSON, MICHAEL JOHNSON, §  
 JENNIFER T. JOHNSON, NADINE §  
 JOHNSON, TYWONDA D. JOHNSON, §

|                                |   |
|--------------------------------|---|
| VANESSA JOHNSON, WILLIE        | § |
| JOHNSON, JR., BESSIE JONES,    | § |
| BETTY JONES, BOBBY JONES,      | § |
| LEMARIO JONES, LOTTIE JONES,   | § |
| PATRICIA JONES, COURTNEY       | § |
| JORDAN, CELICIA KELLEY,        | § |
| KENNETH W. KELLEY, ARLEEN      | § |
| KENNEDY, SHIRLEY KENNEDY,      | § |
| TRACY KENNEDY, STEVEN L.       | § |
| KINCEY, EVELYN LAMPLEY,        | § |
| SERENDA LAMPLEY, EMILY         | § |
| LASETER, MARY ANN LAWRENCE,    | § |
| EDDIE LEWIS, LORENZO J. LEWIS  | § |
| JR., BRENDA LIGHTNER SLATER,   | § |
| MARGIE B. LOHMAN, CHRISTINA E. | § |
| LYNN, ATRAVOUS MAHONE,         | § |
| ELETHIA MARSHALL, REGINA       | § |
| MAYS, REGINA MAYS, DIANNE      | § |
| MCCLLOUD, JOSEPH MCCOY,        | § |
| GERTHA R. MCRAE, ANTHONY       | § |
| MCKINNON, RENNA MERRILL,       | § |
| SHAKERIA L. MOORE, MICHAEL     | § |
| MORRIS, DOROTHY MULKEY, TONY   | § |
| NEWMAN, MARION NORRIS, KRISTA  | § |
| R. OLIVER, GWENDOLYN OWENS,    | § |
| ANDRE PAIGE, JENNIFER PARHAM,  | § |
| JUANITA JONES PARHAM, SHAUNTE  | § |
| PARKER, VALERIE ELAINE         | § |
| PARKER, SHARON D. PARKMAN,     | § |
| ANTONIO L. PEARSON, OZELLA     | § |
| PERSON, MARQUITA PERSON,       | § |
| JOHNNIE MAE POSEY, CORETTA Y.  | § |
| REEVES, DINA REEVES, SHEILA    | § |
| REEVES, CALVIN F. RICHARDSON,  | § |
| JR., DENISE RICHARDSON, LAURIE | § |
| J. ROBINSON, MARGARET          | § |
| ROBINSON, MICHAEL ROBINSON,    | § |
| NETTIE J. RODGERS, RANDY       | § |
| RODGERS, EARL R. ROGERS,       | § |
| ANGELA RUMPH, DORIS SANDERS,   | § |



**SAMUEL A. SHABAZZ, ROSE D. §  
 SHAW, REBECCA H. SHORTER, §  
 VIVIAN Y. SHORTER, GREGORY L. §  
 SINQUEFIELD, SLOANE SMITH, §  
 THERESEA Y. STARLING, TIFFANY §  
 STARLING, RODERICK STREETER, §  
 DESIREE STINSON, TERRANCE T, §  
 TENNILLE, BARBARA L. TEW, §  
 HESTER M. THOMAS, LARRY §  
 THOMAS JR., TAMMY T. THOMAS, §  
 TORA THOMAS, WANDA THOMAS , §  
 SHEMECE THOMPSON, LILLIAN §  
 THOMPSON, BRANTLEY §  
 THORNTON, SHEREEKIA V. §  
 THORNTON, COURTNEY J. §  
 TOLBERT, CAROLYN A. TURNER, §  
 DORSEL TURNER, ALLISON §  
 VAUGHN, ALFONZA WALKER, §  
 MARQUITA WALKER, EDNA L. §  
 WALTON, LAKESHIA E. WARREN, §  
 TARSHEKIA WARREN, DORNAL §  
 WHIGHAM, JOHN WHIGHAM, §  
 PATRICIA WHIGHAM, GARY L. §  
 WHITE, WENDY WHITE, BELINDA §  
 WILLIAMS, BERTHA ANN §  
 WILLIAMS, BOBBY LEE §  
 WILLIAMS,JR., ELAINE WILLIAMS, §  
 KELLI WILLIAMS, VERNIE §  
 WILLIAMS, WILLIE WILLIS, MARY §  
 S. WRIGHT, BETTY J. YOUNG, §  
 SANTIINIA YOUNG and SHAWANDA §  
 YOUNG, §**

**Plaintiffs,**

**v.**

**EQUITY GROUP EUFAULA  
DIVISION, LLC,**

**Defendant.**

§  
§  
§  
§

**FIRST AMENDED COMPLAINT**

Plaintiffs, individually and on behalf of all others similarly situated (“Plaintiffs”), by and through their counsel, for their Complaint against Defendant Equity Group, LLC., (collectively “Equity Group” or “Defendant”), seek to recover for Equity Group’s violations of the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. §§ 201 *et seq.*, and hereby state and allege as follows:

**INTRODUCTION**

1. This is a representative action brought pursuant to FLSA § 216(b) by Plaintiffs on behalf of themselves and all other similarly situated current and former production employees of Equity Group at its Baker Hill, Alabama facility, located in Barbour County, Alabama, for purposes of obtaining relief under the FLSA for unpaid wages, unpaid overtime wages, liquidated damages, costs, attorneys’ fees, declaratory and/or injunctive relief, and/or any such other relief the Court may deem appropriate.

2. Equity Group operates a chicken processing plant in Baker Hill, Alabama (“Baker Hill facility”). The complained of unlawful compensation

system at issue in this Complaint has affected Defendant's present and former hourly production employees at this location.

3. In *IBP, Inc. v. Alvarez*, 126 S. Ct. 514 (2005), the United States Supreme Court unanimously affirmed a ruling that IBP's wage and hour policies – those at issue in this case – violated the Fair Labor Standards Act of 1938 ("FLSA").

4. Equity Group uniformly denies hourly wages and overtime premium pay to its employees, by requiring them to perform "off the clock" work. Equity Group's deliberate failure to pay employees earned wages and overtime compensation violates federal law as set out in the Fair Labor Standards Act.

5. Plaintiffs perform multiple tasks, but are all victims to the same illegal policy and practice of failing to pay workers for all time worked, including unpaid, but compensable break periods, unpaid hourly wage times and unpaid overtime premium wage times.

### **JURISDICTION AND VENUE**

6. The FLSA authorizes court actions by private parties to recover damages for violation of the FLSA's wage and hour provisions. Jurisdiction over Plaintiffs' FLSA claims is based upon 29 U.S.C. § 216(b) and 28 U.S.C. §§ 1331-37.

7. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) and (c), because Equity Group does business in this district and a substantial part of the unlawful conduct giving rise to the claims occurred in this district.

### **PARTIES**

8. Defendant, Equity Group, is a Delaware corporation with its principal place of business in Alabama.

9. Plaintiffs are current and former Equity Group employees who work(ed) at the Equity Group's Baker Hill, Alabama facility within the last three years, dating back to **December 2, 2003**, and can be generally categorized herein as "First Processing" and "Second Processing" employees.

10. First Processing generally includes those employees who work in an area of the plant where the product (chickens) is introduced into the plant and placed or hung on "the line" for killing, cleaning, disemboweling, and chilling.

11. Second Processing generally includes those employees who work in an area of the plant where after the product has completed First Processing, it is further processed, prepared, cut-up, marinated, deboned,

weighed, sized, packed, loaded on trucks, etc. for delivery to plant customers.

12. Plaintiffs listed herein who primarily work in First Processing include: Betty Ann Burks, Mitchell Burks, Temekia Calloway, Marie Chitty, Barbara Ann Darby, Tracy A. Davis , Laurie T. Delbridge, Kenneth Ford, Alvin Forte, Teresa Glenn, Gloria Gullete, Jimmy Hamilton, Annie Ivery, Tinesha S. Jackson, Annie R. Johnson, Felicia Laseter, Christopher Laster, Antonio Lindsey, Leon Lyons , Anthony B. March, Mary March, Mark A. Marsh, Monroe Mccall, Chandra McCray, Dorothy A. McNair, Denise McCray Mitchell, Benjamin Phillips, Marcus Terrell Rice, Ervin Smith, Kendrick Lanan Spann, Anthony Streeter, Marine Tiller, Albert L. Williams Jr. and Chanda Young.

13. Plaintiffs listed herein who primarily work in Second Processing include: Mary Lee Allen, Patsy Anglin, Virginia Avery, Cora L. Baker, Lillie M. Banks, Morris Banks, Tajuana Baskin, Teresa A. Baxter, Annie Beasley, James C. Bedell, Kimberly Bedell, Bettye Biggers, Katina Binion, Tracy Binion, Dorothy A. Blackmon, Rena Blackmon, Willie Mae Blackmon, Marcus B. Blair, Tasheena Bonaparte, Karen Bowens , Jeffery Brooks, Cheranda Brown, Danyel Brown, Larry Bryer, Felicia Bullard , Pearlina Burks, Shannon Burks, Sharon L. Bush, Brenda L. Calhoun,

Michael Cannon, Ethel Carter, Vernetta Carter, Brenda Chambers, Dashawn Clark, Towander Coleman, Latoya Corbitt, Mattie Cotton, Bertha L. Crayton, Anthony T. Culver, Tiffany Cunningham, Latonia M. Davis, Joann Dennard, Cherry A. Devose, Jennifer D. Diggs, Kamilah Dukes, Michelle G. Dumas, Katrina Favors, Chanda L. Ferguson, Reginald Floyd, Salintha Foster, Shervonne Foster, Nicholas L. Freeman, Mary Linda Fryer, Renalta Fuller, Elizabeth Gainer, Camille A. Gipson, Carolyn Glanton, Tangelia D. Glenn, Willie E. Glenn, Annie T. Glover-Patrick, Thomas Gosha, Nakeisha Graves, Alfonza Green, Sr., Andrew Griffin, Kimberly Griffin, Mina L. Guice, Robert A. Hamilton, Brian Hanks, James Harris Jr., Denise Harris Wilson, Larry Hicks, Sherwanda Humbert, Willie B. Ivey, Andre Jackson, Johnny L. Jackson, Terrance Jackson, Molinda Jacobs, Monica James, Annie D. Jenkins, Lawanda Johns, Brenda Johnson, Cedric D. Johnson, Derinda Johnson, Edgar Johnson, Jennifer T. Johnson, Michael Johnson, Nadine Johnson, Tywonda D. Johnson, Vanessa Johnson, Willie Johnson Jr., Bessie Jones, Betty Jones, Bobby Jones, Lemario Jones, Lottie Jones, Patricia Jones, Courtney Jordan, Celicia Kelley, Kenneth W. Kelley, Arleen Kennedy, Shirley Kennedy, Tracy Kennedy, Steven L. Kincey, Evelyn Lampley, Serenda Lampley, Emily Laseter, Mary Ann Lawrence, Eddie Lewis, Lorenzo J. Lewis Jr., Brenda Lightner Slater, Margie B. Lohman,

Christina E. Lynn, Artravous Mahone, Elethia Marshall, Regina Mays,  
Dianne McCloud, Joseph Mccoy, Gertha R. Mcrae, Anthony Mckinnon,  
Rena Merrill, Shakeria L. Moore, Michael Morris, Dorothy Mulkey, Tony  
Newman, Marion Norris, Krista R. Oliver, Gwendolyn Owens , Andre  
Paige, Jennifer Parham, Juanita Jones Parham, Shaunte Parker, Valerie  
Elaine Parker, Sharon D. Parkman, Antonio L. Pearson, Ozella Person,  
Marquita Person, Johnnie Mae Posey, Coretta Y. Reeves, Dina Reeves,  
Sheila Reeves, Calvin F. Richardson, Jr., Denise Richardson, Laurie J.  
Robinson, Margaret Robinson, Michael Robinson, Nettie J. Rodgers, Randy  
Rogers, Earl R. Rogers, Angela Rumph, Doris Sanders, Samuel A. Shabazz,  
Rose D. Shaw. Rebecca H. Shorter, Vivian Y. Shorter, Gregory L.  
Sinquefield , Sloane Smith, Teresa Y. Starling, Tiffany Starling , Roderick  
Streeter, Desiree Stinson, Terrance T. Tennille, Barbara L. Tew, Hester M.  
Thomas, Larry Thomas Jr., Tammy T. Thomas. Tora Thomas, Wanda  
Thomas, Shemiece Thomkins, Lillian Thompson, Brantley Thornton,  
Shereekia V. Thornton, Courtney J. Tolbert, Carolyn A. Turner, Dorsel  
Turner, Allison Vaughn, Alfonza Walker, Marquita Walker, Edna L.  
Walton, Lakeisha E. Warren, Tarshekia Warren, Dornal Whigham, John  
Whigham, Patricia Whigham, Gary L. White, Wendy White, Belinda  
Williams, Bertha Ann Willaims, Bobby Lee Williams Jr., Elaine Williams,

Kelli Willaims, Vernie Williams, Willie Willis, Mary S. Wright, Betty J. Young, Santinia Young and Shawanda Young.

14. Plaintiffs are residents and domiciled in the State of Alabama. Plaintiffs have concurrently filed their Consents to Become Party Plaintiffs pursuant to 29 U.S.C. § 216(b). See Exhibit A.

### **GENERAL ALLEGATIONS**

15. As an integral and indispensable part of Plaintiffs' jobs, Plaintiffs are required to pass through security when entering and leaving the facility. Plaintiffs' are required to have their employment status verified and their arrival and departures documented as well as submit to searches of the person and personal possessions. Plaintiffs aver they are not compensated for the time it takes security to clear them and allow them into the facility and the compensable time afterwards prior to the commencement of production.

16. Plaintiffs go to a designated area to receive required clothing and/or personal protective equipment (PPE) that is required for the work to be performed. The employees are required to don certain equipment before moving into the production areas. The employees are required to perform washing activities associated with preparing for work in the production area. And depending on whether the employee works in First Processing or



Second Processing, the employee may be required to acquire special tools for the work to be performed. During the course of this process, the employee then must walk a significant distance to arrive at the respective workstations on the line.

17. When Plaintiffs leave the line for unpaid breaks or at the end of their shift, they again walk a considerable distance to their respective doffing area where they remove their personal protective equipment, wash or sanitize themselves, their personal protective equipment, sanitary clothing, and/or equipment or tools and return various clothes, personal protective equipment, equipment or tools to the proper areas.

18. Defendant Equity Group owns and operates poultry facilities in Baker Hill, Alabama. The unlawful compensation system at issue in the Complaint has affected Defendant's former and present hourly production employees at this location.

19. Under Equity Group's wage compensation system, Equity Group pays Plaintiffs and others similarly situated employees only regularly scheduled time that they are on the production assembly line or in production areas under a system known as master time, master key, line time or gang time, collectively referred to herein as "master time". Conversely, as a matter of policy and practice, Equity Group does not pay its

hourly employees for required pre-production line and post-production line activities that are necessary and integral to their overall employment responsibilities, such as the time it takes to clear security, donning and doffing protective and sanitary equipment, cleaning and sanitizing that equipment as well as themselves, wait time associated with cleaning and sanitizing that equipment as well as themselves after completion of the first principal activity walking to and from security and the production line from their locker or dressing area after already performing compensable activities, and waiting in line to return required supplies, tools and other equipment needed for line activities. In addition, Equity Group does not pay its employees for time spent waiting at the line, prior to the line start up. Plaintiffs are required to report to duty before the start of the master time clock and required to continue work after the master time clock has stopped.

20. During the course of the day, Plaintiffs are provided unpaid breaks requiring them to walk considerable distances where they remove sanitary clothing and personal protection equipment for their break. The remaining time allowed for the break is further shortened by the requirement for the employee to wash and sanitize, don his or her sanitary clothing and personal protection equipment and return to the workstation. Plaintiffs assert these unpaid breaks are compensable. Alternatively if the total unpaid

break is not deemed compensable Plaintiffs allege they are owed compensation for the walk time prior to and after unpaid breaks, the time spent donning and doffing clothing and equipment pre and post break respectively, and the time spent washing and/or waiting to wash themselves and their equipment.

21. Defendant deducts from Plaintiffs daily time worked, without regard for the actual time spent on break, two (2) uncompensated breaks of fixed duration.

22. The time for which Plaintiffs and other similarly situated employees are paid is significantly less than the time they spend at work between the time they begin their integral, essential and indispensable work duties and the time they arrive at their workstations on the line. The work time for which Plaintiffs are not paid include, but are not limited to: (1) changing into the protective required work uniforms, sanitary clothing and protective safety equipment that can include, among other things (depending on the task and whether First or Second Processing): ear plugs, smocks, work pants and shirts; safety jump suits; safety boots; hair nets; face nets; hard hats; aprons; belts with holsters and knives; and hand and arm protections; and (2) walking to and from the security, changing areas, work

areas and break areas; washing activities; and (3) breaks that are effectively compensable .

23. The walking time for which Plaintiffs are not paid occurs after the beginning of the employee's first principal activity and before the end of the employee's last principal activity.

24. The required protective work uniforms, sanitary clothing and protective safety equipment that Plaintiffs must wear, and for which they are not paid for donning and doffing times, is required by Equity Group and/or by government regulation. Plaintiffs' jobs are dangerous and involve serious health and safety risks. The circumstances of Plaintiffs' jobs, including vital considerations of health and hygiene, require them to wear the protective work uniforms, sanitary clothing and protective safety equipment. These donning, doffing, washing activities, compensable unpaid breaks and walking duties all add up to a significant amount of time every day for which Plaintiffs and others similarly situated are not paid.

25. In addition to depriving Plaintiffs and others similarly situated of hourly wages for compensable time pursuant to the FLSA, Defendant Equity Group's failure to accurately account for and report all compensable time worked by the Plaintiffs and others similarly situated, and has deprived

Plaintiffs and others similarly situated of what would otherwise be overtime pay, pursuant to the FLSA.

### **COLLECTIVE ACTION ALLEGATIONS**

26. Plaintiffs bring Count I, the FLSA claim, as an “opt-in” collective action pursuant to 29 U.S.C. § 216(b). In addition to the claims of individually named Plaintiffs, Plaintiffs bring this action as representatives of all similarly situated former and current employees of the Baker Hill facility. The potential class of “opt-in” employees can be defined as:

All current and former hourly 1<sup>st</sup> and 2<sup>nd</sup> processing employees of Defendant, paid under a master time compensation system in which individuals’ time card punches are not the basis for starting and ending hours worked, who worked at the Baker Hill facility since **December 2, 2003**, and who were not paid for all the time spent performing compensable work-related tasks or legally compensable time, including, but not limited to authorized unpaid break times, donning and doffing times, washing activity times, time associated with passing through security check points and walking to changing areas and time walking to security and passing through security at the end of the day and walking times to and from break areas or donning and doffing areas, and including time compensable at regular hourly wages, as well as overtime pay for these employees.

27. The FLSA claims may be pursued by those who opt-in to this case, pursuant to 29 U.S.C. § 216(b).

28. Plaintiffs, individually and on behalf of other similarly situated employees, seek relief on a collective basis challenging, among other FLSA violations, Defendant’s practice of failing to accurately record all hours

worked and failing to pay employees for all hours worked, including overtime compensation.

29. The number and identity of other Plaintiffs yet to opt-in and consent to be party Plaintiffs may be determined from the records of Defendant, and potential class members may easily and quickly be notified of the pendency of this action.

30. On information and belief, the Baker Hill facility employs approximately 500 hourly wage employees who potentially have FLSA claims similar to the claims set out herein. Consequently, joinder of all collective action members in a single action is impracticable.

31. Potential collective action members may be informed of the pendency of this class action through direct mail.

32. There are questions of fact and law common to the class that predominates over any questions affecting only individual members. The questions of law and fact common to the class arising from Defendant's actions include, without limitation, the following:

- a) Whether Plaintiffs were compensated for time spent clearing security and time spent walking from security to their changing areas and from changing areas to security;
- b) Whether the security activities at issue are integral or indispensable to Defendant's business activities;

- c) Whether Plaintiffs were compensated for time spent donning and doffing clothing and protective gear, washing, and walking to and from their job posts;
- d) Whether the donning, doffing and washing activities at issue are integral or indispensable to Defendant's business activities;
- e) Whether Plaintiffs were entitled to compensation for time spent donning and doffing, washing activity time, and walking time to and from "the line";
- f) Whether Plaintiffs' donning, doffing, washing activity, and walking time is integral and indispensable to their principal activities;
- g) Whether Defendant failed to pay employees for unpaid breaks that were effectively compensable.
- h) Whether Defendant's compensation policy and practice accurately accounts for the time Plaintiffs are actually working;
- i) Whether Defendant's compensation policy and practice is illegal;
- j) Whether Defendant had a policy and practice of willfully failing to record and compensate employees for all time worked; and
- k) Whether Defendant failed to accurately record all compensable time, resulting in a failure to compensate Plaintiffs and other similarly situated employees of regular hourly wages and overtime pay, in violation of Defendant's policies and procedures and the mandate of the FLSA.

33. The questions set forth above predominate over any questions affecting only individual persons, and a class action is superior with respect to considerations of consistency, economy, efficiency, fairness and equity, to

other available methods for the fair and efficient adjudication of the federal law claims.

34. The Collective Action Representatives' claims are typical of those of the similarly situated employees in that these employees have been employed in the same or similar positions as the Collective Action Representatives and were subject to the same or similar unlawful practices as the Collective Action Representatives.

35. A collective action is the appropriate method for the fair and efficient adjudication of this controversy. Defendant has acted or refused to act on grounds generally applicable to the similarly situated current and former employees. The presentation of separate actions by individual similarly situated current or former employees could create a risk of inconsistent and varying adjudications, establish incompatible standards of conduct for Defendant, and/or substantially impair or impede the ability of Collective Action members to protect their interests.

36. The Collective Action Representatives are adequate representatives of the similarly situated current and former employees because they are employees of the same processing plant and their interests do not conflict with the interests of the other similarly situated current and former employees they seek to represent. The interests of the members of



the class of employees will be fairly and adequately protected by the Collective Action Representatives and their undersigned counsel, who have extensive experience prosecuting complex class action lawsuits.

37. Maintenance of this action as a collective action is a fair and efficient method for the adjudication of this controversy. It would be impracticable and undesirable for each member of the collective action who suffered harm to bring a separate action. In addition, the maintenance of separate actions would place a substantial and unnecessary burden on the courts and could result in inconsistent adjudications, while a single collective action can determine, with judicial economy, the rights of all collective action members.

## **COUNT I**

### **Violation of the Fair Labor Standards Act of 1938**

**(Brought Against Defendant by All Individually-Named Plaintiffs and on Behalf of All Others Similarly Situated)**

38. Plaintiffs reassert and incorporate by reference paragraphs 1 through 37 as set forth above as if fully restated herein.

39. At all time material herein, Plaintiffs have been entitled to the rights, protections, and benefits provided under the FLSA, 29 U.S.C. § 201 *et. seq.*

40. The individually named Plaintiffs and all similarly situated employees are victims of a uniform and facility-wide compensation policy and practice, in violation of the FLSA.

41. Equity Group violated the FLSA by failing to account for all compensable time of its employees that resulted in a failure to pay Plaintiffs and others similarly situated for compensable hourly wages and overtime premium pay.

42. Equity Group violated the FLSA by failing to pay for time donning and doffing essential required equipment, integral to the principle work activity.

43. Equity Group failed to account for and pay for time walking to and from the line to break areas and/or donning and doffing areas.

44. Equity Group failed to account for and pay for time spent clearing security and for time walking to and from security to donning and doffing areas.

45. Equity Group failed to account for and pay for time allocated as unpaid breaks. In the alternative, Equity Group failed to pay for walk time to and from unpaid break areas, time spent donning and doffing on unpaid breaks, and washing activities associated with breaks.

46. In perpetrating these unlawful practices Equity Group has also willfully failed to keep accurate records for all of the time worked by its hourly employees.

47. The FLSA regulates, among other things, the payment of overtime pay by employers whose employees are engaged in commerce, or engaged in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce. 29 U.S.C. § 207(a)(1).

48. Equity Group was, and is, subject to the overtime pay requirements of the FLSA because it is an enterprise engaged in commerce and its employees are engaged in commerce.

49. Section 13 of the FLSA, 29 U.S.C. § 213, exempts certain categories of employees from overtime pay obligations. None of the FLSA exemptions apply to the Plaintiffs. Accordingly, Plaintiffs must be paid overtime pay in accordance with the FLSA.

50. Equity Group's failure to accurately record compensable work time was willfully perpetrated Equity Group has not acted in good faith nor with reasonable grounds to believe its actions and omissions were not a violation of the FLSA, and as a result thereof, Plaintiffs and other similarly situated employees are entitled to recover an award of liquidated damages in

an amount equal to the amount of unpaid hourly wages and overtime premium pay described above pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b). Alternatively, should the Court find Equity Group did not act willfully in failing to pay all hourly wages and overtime premium pay wages, Plaintiffs and all similarly situated employees are entitled to an award of prejudgment interest at the applicable legal rate.

51. As a result of the aforesaid willful violations of the FLSA's overtime provisions, overtime compensation has been unlawfully withheld by Equity Group from Plaintiffs for which Equity Group is liable pursuant to 29 U.S.C. § 216(b).

52. Plaintiffs and all similarly situated employees are entitled to damages equal to the mandated overtime premium pay within the three years preceding the filing of this Complaint, plus periods of equitable tolling, because Equity Group acted willfully and knew, or showed reckless disregard of whether, its conduct was prohibited by the FLSA.

53. Pursuant to FLSA, 29 U.S.C. § 216(b), successful Plaintiffs are entitled to reimbursement of the costs and attorney's fees expended in successfully prosecuting an action for unpaid wages and overtime wages.

WHEREFORE, it is respectfully prayed that this Court grant to the Plaintiffs the following relief:

- a) At the earliest possible time, issue an Order allowing Notice or issue such Court supervised Notice to all similarly situated current and former Equity Group's hourly employees (working at the Equity Group's Baker Hill location in the last three years) of this action and their rights to participate in this action. Such Notice shall inform all similarly situated current and qualified former employees of the pendency of this action, the nature of this action, and of their right to "opt in" to this action if they worked "off the clock" for times not paid, including time that may be paid at overtime rates.
- b) Issue an Order, pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, declaring that Defendant Equity Group's actions, as described in the Complaint, are unlawful and in violation of the FLSA and applicable regulations and are and were willful as defined in the FLSA;
- c) Issue an Order directing and requiring Defendant Equity Group to pay Plaintiffs and all other similarly situated employees damages in the form of reimbursement for unpaid hourly and premium overtime wages (past and future) for all time spent

performing compensable work for which they were not paid pursuant to the rate provided by the FLSA;

- d) Issue an Order directing and requiring Defendant Equity Group to pay Plaintiffs and all other similarly situated employees liquidated damages pursuant to the FLSA in an amount equal to, and in addition to the amount of wages and overtime wages owed to them;
- e) Issue and Order directing Defendant Equity Group to reimburse Plaintiffs and other similarly situated employees for the costs and attorneys fees expended in the course of litigating this action, pre-judgment and post-judgment interest;
- f) Provide Plaintiffs with such other and further relief, as the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

All Plaintiffs hereby request trial by jury of all issues triable by jury under Alabama and federal law.

Dated: \_\_\_\_\_

Respectfully submitted,

**THE COCHRAN FIRM, P.C.**

/s/ Robert J. Camp

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*Attorneys for Plaintiffs*

**TAB 2**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA,  
MONTGOMERY DIVISION**

**BETTY ANN BURKS, et al.,**

**Plaintiffs,**

**v.**

**EQUITY GROUP EUFAULA  
DIVISION, LLC,**

**Defendant.**

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**CIVIL ACTION NO.  
2:06-cv-01081-MEF-DRB**

**PLAINTIFFS' MOTION FOR AN ORDER PERMITTING COURT  
SUPERVISED NOTICE TO EMPLOYEES  
OF THEIR OPT-IN RIGHTS AND  
INCORPORATED MEMORANDUM OF LAW**

Plaintiff, BETTY ANN BURKS, et al., (“Plaintiffs”), request the entry of an Order permitting under court supervision, notice to all Defendant EQUITY GROUP EUFAULA DIVISION, LLC’s (“Equity Group” or “Defendant”) Baker Hill Plant hourly 1<sup>st</sup> and 2<sup>nd</sup> processing employees, as defined in Plaintiffs’ Complaint. As a result of Defendant’s illegal pay practices employees did not receive full payment for required pre-production line and post-production line activities that are necessary, integral, and indispensable to their overall employment responsibilities. In support of these individuals’ opt-in rights, Plaintiffs state as follows:

**MOTION FOR AN ORDER PERMITTING COURT SUPERVISED  
NOTICED  
TO EMPLOYEES OF THEIR OPT-IN RIGHTS**

1. Section 16(b) of the Fair Labor Standards Act of 1938 (“FLSA”) provides, among other things, that an action to recover unpaid minimum wages or unpaid overtime compensation may be maintained against any employer in any federal or state court of competent jurisdiction by any one or more employees for and on behalf of himself or themselves and other employees similarly situated. See 29 U.S.C. § 216(b).

2. As stated in Plaintiffs’ Complaint, Plaintiffs are current or former 1<sup>st</sup> and 2<sup>nd</sup> processing employees authorized by the FLSA to sue in their own names on behalf of themselves individually and other employees similarly situated. Plaintiffs are current and former 1<sup>st</sup> and 2<sup>nd</sup> processing employees of Defendant who have brought this action on behalf of all current and former similarly situated 1<sup>st</sup> and 2<sup>nd</sup> processing employees, employed at the Eufaula/Baker Hill Alabama Slaughter Plant, whose hours worked were recorded under a wage compensation system in which individual employee time clock punches are not the basis for starting and ending hours worked and within the last three (3) years did not receive full payment for required pre-production line and post-production line activities that are necessary, integral, and indispensable to their overall employment

responsibilities, such as donning and doffing protective and sanitary equipment, cleaning and sanitizing that equipment as well as themselves, wait time associated with cleaning and sanitizing equipment as well as themselves, walking to and from the production line from their locker or dressing area after already performing compensable activities, time deducted as unpaid breaks that due to walk time, donning, doffing, and wash times the unpaid breaks should be compensable, waiting in line to return required supplies, tools, and other equipment needed for line activities, time spent waiting at the line prior to the start of master time clock / scheduled time and time spent continuing work after the master time clock / scheduled time has stopped, and time spent clearing security at the beginning and end of the day.

3. Plaintiffs know that their claims are typical of the claims of other former and current 1st and 2nd processing employees employed by Defendant, and typical of the claims of all members of the representative class described below. *See* Affidavits of Plaintiffs at ¶¶ 5-9 attached as Exhibit 1; *See* Affidavits of Plaintiffs at ¶¶ 5-9 attached as Exhibit 2.

4. The representative class consists of all current and former 1st and 2nd processing employees who worked for Defendant at any time within the last three (3) years, whose hours worked were recorded under a wage

compensation system in which individual employee time clock punches are not the basis for starting and ending hours worked but instead are recorded under a system known as line time, master time, master key, gang time, scheduled time, etc., collectively referred to herein as “master time”, and who were subjected to Defendant’s practice and policy of not paying for work described above and any overtime compensation for hours worked in excess of forty (40) as a result of this practice.

5. As a result of such compensation practices, potential class members did not receive payment in full for the time set forth in ¶ 2.

6. The one hundred and fifty four (154) named plaintiffs as well as one hundred and seventy eight (178) opt-in plaintiffs have filed Notices of Consent to Join.<sup>1</sup>

7. Simply put, all other 1st and 2nd processing employees falling within the class described herein have the right to participate in this litigation. And, although the class of current and former 1st and 2nd

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<sup>1</sup> United States Magistrate Judge Frank Lynch, Jr., permitted notice to proceed stating that: “...the Affidavit of [a single opt-in Plaintiff] shows that at least one other co-worker desires to join the suit, thereby raising the Plaintiff’s contention beyond one of pure speculation.” Order on Plaintiff’s Motion for an Order Permitting Court Supervised Notice to Employees of Their Opt-in Rights, *Larry Guerra v. Big Johnson Concrete Pumping, Inc.*, CASE NO.: 05-14237 (S.D. Fla. May 17, 2006). In a recent poultry case, Judge Inge Johnson conditionally certifying the class found, “... at this stage of the proceedings, the plaintiffs do not necessarily need to show a “unified policy, plan or scheme of discrimination to establish that the proposed class members are similarly situated.” Order on Plaintiff’s Motion for an Order Permitting Court Supervised Notice to Employees of Their Opt-in Rights, *Aguilar v. Pilgrim’s Pride Corporation*, CASE NO.: CV-06-J-1673-NE (N.D. Ala. January 31, 2007). See Exhibit 4

processing employees is identified and certain, the individual members of the class cannot be completely identified absent access to Defendant's books and records.

WHEREFORE, Plaintiffs respectfully request that the Court permit and supervise notice, in English and Spanish, to all current and former 1st and 2nd processing employees whose hours worked were recorded under a wage compensation system in which individual employee time clock punches are not the basis for starting and ending hours worked and within the last three (3) years did not receive full payment for all hours worked as described in Plaintiffs' complaint.

### **MEMORANDUM OF LAW**

#### **A. Introduction**

The FLSA authorizes employees to bring an action individually and on behalf of others similarly situated. *See* 29 U.S.C. § 216(b). The FLSA provides, in part, that:

An action to recover the liability [for unpaid wages and overtime] may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and on behalf of himself or themselves and other similarly situated. *No employee shall be a party Plaintiff to any such action unless he gives his consent in writing to*

***become such a party and such consent is filed in the court in which such action is brought.***

*See id.* (emphasis added).

As part of its processing operation, Equity Group employs hourly processing employees to provide labor to assist in the processing of live chickens. *See* Affidavits at ¶4, attached as Exhibits 1-2.

Hourly processing employees primarily work in 1<sup>st</sup> processing where chickens are placed or hung on lines, killed, disemboweled, inspected, diseased parts are removed or trimmed, cleaned and chilled or 2<sup>nd</sup> processing where chickens after completing 1<sup>st</sup> processing are placed or hung on lines and are further processed, cut-up, marinated, deboned, weighed, sized, packed, loaded on trucks, etc. for delivery to plant customers. *See* Affidavits at ¶5, attached as Exhibits 1-2.

Because the work performed is unskilled or at best in some instances semi-skilled, all work is similar in nature regardless of hourly employees' titles, supervisor or department. *Id.* All hourly employees are interchangeable and they are required to work open positions throughout the plant as production requirements dictate. *See id.* Therefore, employees do not have set job responsibilities and all employees within 1<sup>st</sup> or 2<sup>nd</sup> processing perform similar tasks and thus are alike.

Plaintiffs are current and former employees of Defendant. During their employment with Defendant, Plaintiffs were paid on an hourly basis. *See* Affidavits at ¶4, attached as Exhibits 1-2.

While employed by Defendant, Plaintiffs and other similarly situated 1st and 2nd processing employees regularly were not paid for all hours worked and those unpaid hours in excess of forty (40) hours per workweek during their employment with Defendant. *See* Affidavits of **1<sup>st</sup> processing employees**, at ¶4, ¶8, attached as Exhibit 1; *See* Affidavits of **2<sup>nd</sup> processing employees**, at ¶4, ¶8 attached as Exhibit 2.

Plaintiffs observed that Defendant paid all of their co-employees/1st and 2nd processing employees in the same regard. *See id.* at ¶8. Thus, as a result, Plaintiffs and other similarly situated 1st and 2nd processing employees did not receive compensation for all hours worked and overtime for unpaid hours worked over forty (40) each workweek. *See id.*

Plaintiffs assert that Defendant's above compensation policies violate the FLSA's overtime provisions requiring the payment for all hours worked and of time and one half overtime compensation for each hour worked over forty (40) in a workweek. That is, because Defendant failed to pay all hours worked and time and one half for each hour of overtime worked, Plaintiffs maintain that such compensation practices have adversely affected the rights

of each member of this collective action. Therefore, Plaintiffs seek authorization to facilitate notice to each of Defendant's 1st and 2nd processing employees who were subjected to the illegal pay practices described above at any time within the last three (3) years.

Plaintiffs further request that they be permitted to give such notice as approved by this Court to all such class members of their rights to opt-in to this case by executing an appropriate consent as required by Section 216(b) of the FLSA. Plaintiffs' affidavits, and the affidavits of additional "opt-in Plaintiffs"<sup>2</sup> who have joined this action since the time it was filed, attest that Defendant's other 1st and 2nd processing employees were subject to the same pay policy, plan and practice, had similar duties, were paid in the same manner, and thus, are similarly situated for purposes of facilitating notice under the FLSA. Plaintiffs furthermore attest that should this Court grant notice, additional Plaintiffs will come forward to participate. *See* Affidavits at ¶10, attached as Exhibits 1-2.

**B. Applicable Standards For Collective Actions**

FLSA Rule 216(b) collective actions operate much differently than typical class action suits under Rule 23 of the Federal Rules of Civil Procedure. Under 29 U.S.C. § 216(b) of the FLSA, an employee belonging

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<sup>2</sup> Since the inception of this litigation, numerous Plaintiffs have filed Opt-in Consents. See Court Document Numbers 10, 11, 12, 17, 27, 36, 37, and 39.



to a similarly situated class of Plaintiffs must “opt-in” to the class by filing a written consent with the Court in order to be bound by the outcome of the case. Without signing and filing such an express consent, employees are not bound by the outcome of the litigation. *See id.* This is the exact opposite of traditional Rule 23 class actions in which a Plaintiff initiating a class action automatically represents every member of the class that has not expressly “opted-out.”

Because of this requirement to affirmatively opt-in and because the statute of limitation does not toll for the individual until he files his opt-in consent with the court, a delay in conditional certification, i.e. court supervised notice, prejudices putative class members and benefits Defendant. Plaintiffs respectfully submit, the longer it takes for the Court to issue notice the more likely large numbers of putative class members potentially will lose their right to join this litigation, or at best, retain their right to participate but suffer a reduction in back-pay damages. Case law, recognizing a fundamental difference between Rule 23 class actions and Rule 216(b) collective actions, has also interpreted the statutory sections as requiring all plaintiffs in a collective action under the FLSA to file written consents for statute of limitations purposes. Signed consents filed after the filing of the complaint do not relate back to the date the complaint was filed.

*Grayson v. K Mart Corp.*, 79 F.3d 1086 at 1106 (11th Cir. 1996); *O'Connell v. Champion Int'l Corp.*, 812 F.2d 393 at 394 (8th Cir. 1987); *La Chapelle v. Owens Illinois, Inc.*, 513 F.2d 286, 288, 289 (5th Cir. 1975).

**C. The 11<sup>th</sup> Circuit and the Two – Tiered *Hipp* Analysis**

The Eleventh Circuit utilizes a two-tiered approach to certification of an opt-in class pursuant to 29 U.S.C. § 216(b). *See Hipp v. Liberty Nat'l Life Ins. Co.*, 252 F.3d 1208, 1219 (11th Cir. 2001 ) (stating that the two-tiered approach “appears to be an effective tool for district courts to adopt in future cases”). Under this two-tiered approach, the court makes an initial determination, based solely upon the pleadings and any affidavits, whether notice of the action should be given to potential class members. *See id.* at 1218. Because the court has minimal evidence at this stage of the proceedings, this determination is made using a fairly lenient standard, and typically results in conditional certification of a representative class. *See id.* Thereafter, a second, more rigorous factual determination is made as to whether the potential opt-in Plaintiffs are similarly situated.<sup>3</sup> *See id.*

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<sup>3</sup> Plaintiffs anticipate that Defendant will argue that Plaintiffs and their co-employees are somehow dissimilar or individual defenses apply and that conditional class certification would therefore be inappropriate. However, the fact remains that such an argument regarding the factual nature of Plaintiffs' claims and Defendant's defenses thereto are irrelevant at this stage of the notification process. Specifically, a factual analysis regarding the “individualized” nature of Plaintiffs' claims and Defendant's defenses is more appropriate *via* a Motion to Decertify at the conclusion of discovery, not at Stage I. *See Pendlebury v. Starbucks Coffee Co.*, 2005 WL 84500 \* 3 (S.D. Fla. Jan. 3, 2005)

This two-tiered approach was utilized by the Middle District of Alabama in *Harper v. Lovett's Buffet Inc.*, 185 F.R.D 358 (M.D. Ala. 1999). The Court found it appropriate to conditionally certify a class of all hourly restaurant employees working at a Dothan restaurant after Plaintiffs presented fifteen (15) affidavits, twelve (12) signed by servers, one (1) signed by a cook, one (1) signed by a hostess and one (1) signed by a food preparation worker, where the affidavits showed they had all been subject to

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(Marra, J.) (Judge Marra did not consider individualized defenses in permitting Stage I notification); *Cameron-Grant v. Maxim Healthcare Services, Inc.*, 347 F.3d 1240, 1243 (11<sup>th</sup> Cir. 2003) ("The first determination is made at the so-called 'notice stage'....Because the Court has minimal evidence, this determination is made using a fairly lenient standard, and typically results in a conditional certification of a representative class. The action proceeds as a representative action throughout discovery."); *Grayson v. K Mart Corp.*, 79 F.3d 1086, 1096 (11<sup>th</sup> Cir. 1996) ("We hold that section 216(b)'s 'similarly situated' requirement is less stringent than that for joinder under Rule 20(a) or for separate trials under rule 42(b)."); *Felix De Asencio v. Tyson Foods, Inc.*, 130 F.Supp.2d 660, 663 (E.D. Pa. 2001) ("While this information [submitted by Defendant] may play a more significant role after discovery and during an analysis of the second and final similarly situated tier, Plaintiffs have advanced sufficient evidence to meet their low burden at this first tier of the similarly situated question."); *see also Brown v. Money Tree Mortgage, Inc.*, 222 F.R.D. 676, 682 (D. Kan. 2004) ("[T]he court will examine the individual Plaintiffs' disparate factual and employment settings, as well as the various defenses available to the Defendant which appear to be individual to each Plaintiff, during the 'second stage' analysis after the close of discovery."); *Leuthold v. Destination America*, 224 F.R.D. 462, 468 (N.D. Cal. 2004) ("Defendants' arguments in their opposition brief focus on the more stringent second tier analysis and raise issues that may be more appropriately addressed on a motion for decertification after notice is given to the proposed class."); *Goldman v. Radioshack Corp.*, No. Civ.A. 2:03-CV-032, 2003 WL 21250571, at \*8 (E.D. Pa. Apr. 16, 2003) ("A fact-specific inquiry is conducted only after discovery and a formal motion to decertify the class is brought by the Defendant."). Thus, setting Defendant's anticipated factual arguments aside for purposes of Plaintiff's Stage I Motion, Plaintiffs clearly have met their burden of proof on the "similarly situated" prong under *Hipp*.

the practice of managers clocking them out before work was completed resulting in possible violations of minimum wage and maximum hour provisions of the FLSA. *See id. at 363, 364, 365.* Citing *Grayson v. K Mart Corp.*, 79 F.3d at 1086, 1096, (11<sup>th</sup> Cir. 1996), the Court stated Plaintiffs bear the burden to establish that they are similarly situated. This burden, which is not heavy, may be met by detailed allegations supported by affidavits. *Id. at 1097.* More recently two judges, Judge Coogler and Judge Johnson, in the Northern District of Alabama have granted conditional certification utilizing the *Hipp* Analysis. *See Exhibit 3 - 5.* Furthermore, the *Hipp* analysis has been used outside the 11<sup>th</sup> Circuit recently in the 4<sup>th</sup> Circuit where Judge Seymore granted notice in a national collective action against poultry giant, Gold Kist, Inc. *See Exhibit 6*

To that affect, in *Hoffman-La Roche, Inc. v. Sealing*, 110 S. Ct. 482 (1989), the Court ruled that not only did trial courts have authority to compel Defendant-employers to provide names and addresses of potential Plaintiffs through the pretrial discovery process, but that this authority also included sending court-authorized consent forms to potential Plaintiffs. *See id.* There, the Court addressed the issue of whether the district court may play any role on prescribing the terms and conditions of communication from the named Plaintiffs to the potential members of the class on whose behalf the

collective action has been brought. *See id.* The Court determined that district courts have discretion in appropriate cases to implement 29 U.S.C. §216(b), by facilitating notice to potential Plaintiffs. *See id.* at 486. This authority arises from the Court's broad discretionary power to manage the process of joining multiple parties in an orderly manner. *See id.*

In addition to individual defenses, Plaintiffs anticipate Defendant may ask for an extensive period of time to conduct discovery in order to respond to this motion. Plaintiffs respectfully oppose such a period for discovery because as stated above, at this initial stage, the conditional certification stage, the Court should base its decision solely on the pleadings and attached affidavits. Defendant wishes to engage in prolonged discovery to attempt to draft a response that will decertify the class before the class even exists. Defendant's response to this motion will essentially be a motion to decertify. If unsuccessful they will attempt a second time to decertify the class after notice is given, discovery is complete and the class is certain. This second bite at the apple is fundamentally unfair and it is not consistent with the two tiered certification process utilized by the 11<sup>th</sup> Circuit when addressing collective actions. Defendants should not be allowed to decertify the class before the class exists.

There are questions of law or fact common to Defendant's other 1st and 2nd processing employees and the claims of the named Plaintiffs in the instant matter. Indeed, Plaintiffs' claims are typical of the claims of the other individuals in their positions. For purposes of defining the "similarly situated class" pursuant to 29 U.S.C. § 216(b), Plaintiff need only demonstrate that the defined class is comprised of representatives who are similarly situated to Plaintiffs with regard to Defendant's payroll practices and record keeping requirements. See 29 U.S.C. § 216(b); *Dybach v. State of Fla. Dept. of Corrections*, 942 F.2d 1562 (11th Cir. 1991). There is no requirement of "strict symmetry" or "absolute identity"; rather potential class members must meet only a "sufficiently similar" standard. *Glass v. IDS Financial Services, Inc.*, 778 F. Supp. 1029, 1081 (D. Minn. 1991) (an allegation that a single decision, policy or plan precipitated the challenged action was sufficient to define the class).

Here, Defendant employed numerous 1st and 2nd processing employees in Baker Hill, Alabama. At some point during the last three (3) years, each of these 1st and 2nd processing employees performed labor for Defendant which included assisting in the processing of chickens. These 1st and 2nd processing employees were paid on an hourly basis, and regularly were not paid for all hours worked and worked more than forty

(40) hours per workweek. As a result of this practice, Defendant regularly failed to pay their 1st and 2nd processing employees proper compensation owed as required by the FLSA.

Based upon the Complaint allegations and the above-referenced Affidavits, Plaintiffs have satisfied the applicable burden of persuasion that a colorable basis exists for determining that others similarly situated to Plaintiff exist.

### **CONCLUSION**

Here, a collective action is sought as the Defendant has acted or refused to act on grounds generally applicable to the class (Defendant's current and former 1st and 2nd processing employees who were subjected to Defendant's practice and policy of not paying all hours worked and overtime compensation for hours worked over forty (40) in a workweek), thereby making appropriate the same relief with respect to the class as a whole. Additionally, questions of law or fact common to all 1st and 2nd processing employees as described in the class definition predominate over any questions affecting only individual members. Thus, a collective action is superior to other available methods for the fair and efficient adjudication of this controversy. Plaintiffs seek authorization to provide: (1) the proposed "Notification" letter, attached as Exhibit A, to be sent to all similarly

situated employees; along with the (2) the proposed “Notice of Consent to Join” form, attached as Exhibit B, in English and Spanish, which similarly situated employees can complete, sign, and file in this matter.

Plaintiffs have met their burden to facilitate notice to potential class members under Eleventh Circuit precedent. Accordingly, Plaintiffs respectfully request that notice be permitted and supervised and that notice be sent to all current and former 1st and 2nd processing as described in the class definition.

Dated: May 10, 2007

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 10, 2007, I electronically filed the foregoing Motion with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to:

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**ROBERT J. CAMP**

**TAB 3**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

|                                  |   |                           |
|----------------------------------|---|---------------------------|
| BETTY ANN BURKS, <i>et al.</i> , | ) |                           |
|                                  | ) |                           |
| PLAINTIFFS,                      | ) |                           |
|                                  | ) |                           |
| v.                               | ) | CASE NO. 2:06-cv-1081 MEF |
|                                  | ) |                           |
| EQUITY GROUP EUFAULA             | ) | (WO)                      |
| DIVISION LLC,                    | ) |                           |
|                                  | ) |                           |
| DEFENDANT.                       | ) |                           |

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on the Plaintiffs' Motion for an Order Permitting Court Supervised Notice to Employees of Their Opt-In Rights (Doc # 40), filed May 10, 2007. This Court has carefully reviewed the evidence and arguments presented by the parties and finds that the Plaintiff's motion is due to be GRANTED.

The Plaintiffs in this case are current or former employees of Equity Group Eufaula Division ("Defendant") at the Eufaula/Baker Hill Alabama Slaughter Plant. Plaintiffs are suing the Defendant under the Fair Labor Standards Act of 1938 ("FLSA") seeking to recover unpaid wages or overtime compensation. *See* 29 U.S.C. § 216(b). Plaintiffs wishing to sue as a class under the FLSA must utilize the opt-in class mechanism provided in 29 U.S.C. § 216(b) instead of the opt-out class procedure provided in Fed. R. Civ. P. 23. *Cameron-Grant v. Maxim Healthcare Servs., Inc.*, 347 F.3d 1240, 1243 & n.2 (11th Cir. 2003) (citing *Hipp v. Liberty Nat'l Life Ins. Co.*, 252 F.3d 1208 (11th Cir. 2001)).

In order for a court to authorize the named plaintiff to provide notice to potential class

members of the collective action, the plaintiff has the burden to show a “reasonable basis” for their claim that collective action status is appropriate. *Grayson v. K Mart Corp.*, 79 F.3d 1086, 1097 (11th Cir. 1996). The plaintiff must satisfy a two-pronged test: (1) that there are other employees of the employer who wish to opt-in, and (2) that these employees are “similarly situated.” *Dybach v. State of Fla. Dept. of Corrections*, 942 F.2d 1562, 1567-68 (11th Cir. 1991). Because this determination is necessarily made at the early stages of litigation and the court has minimal evidence, this determination is made using a fairly lenient standard. *Hipp*, 252 F.3d at 1218. Furthermore, in order to satisfy the “similarly situated” requirement, plaintiffs “need show only that their positions are similar, not identical, to the positions held by the putative class members.” *Id.* at 1217. “The ‘similarly situated’ requirement of § 216(b) is more elastic and less stringent than the requirements found in Rule 20 (joinder) and Rule 42 (severance). A unified policy, plan, or scheme . . . may not be required to satisfy the more liberal ‘similarly situated’ requirements of § 216(b).” *Id.* at 1219 (internal quotation marks and citations omitted).

Here, the Defendant does not oppose conditional certification of the class in order to allow the Plaintiffs to provide notice to potential class members. Moreover, the parties have already agreed on proposed notice and consent forms to be sent to these individuals. This Court has reviewed the record before it and finds that there is sufficient evidence of a reasonable basis to conditionally certify a class pursuant to 29 U.S.C. § 216(b). There is ample evidence in this case that other employees wish to opt-in to this case as Plaintiffs have

filed affidavits of 52 employees, and more than 180 current or former additional employees have filed notice of consent to join this suit since it was originally filed.

Furthermore, this Court finds that there is sufficient evidence that these employees are “similarly situated” for the purposes of conditional certification. The Plaintiffs seek to form a class of all Equity Group Eufaula Division Baker Hill Plant hourly 1st and 2nd processing production employees. The affidavits submitted by the Plaintiffs establish that these employees were all subject to the same compensation policies that are the subject of this suit. Specifically, the Plaintiffs claim that these employees were not compensated for alleged work-related activities including donning/doffing protective equipment, cleaning and sanitizing, and other activities. Consequently, the potential class of Plaintiffs all worked at the same plant, were subject to the same compensation system, with the same or similar job duties, and they seek damages for the same injuries under the same legal theory. Under these circumstances, conditional certification is appropriate. *See Holt v. Rite Aid Corp.*, 333 F. Supp. 2d 1265, 1270 (M.D. Ala. 2004) (Albritton, J.) (“[P]laintiff must make some rudimentary showing of commonality between the basis for his claims and that of the potential claims of the proposed class, beyond the mere facts of job duties and pay provisions.”); *Bradford v. Bed Bath & Beyond, Inc.*, 184 F. Supp. 2d 1342, 1346-51 (N.D. Ga. 2002) (granting certification where “Plaintiffs have made substantial allegations, supported by evidence, that Defendant failed to comply with the FLSA by failing to pay overtime compensation to non-exempt employees on a class-wide basis.”).

For the foregoing reasons, it is hereby ORDERED that:

(1) Plaintiffs' Motion for an Order Permitting Court Supervised Notice to Employees of Their Opt-In Rights (Doc # 40) is GRANTED, with respect to a class of all hourly paid 1st or 2nd processing production employees who have worked at Equity Group Eufaula Division, LLC, in Baker Hill, Alabama since March 12, 2004.

(2) The Defendant is ORDERED to furnish Plaintiffs with the names and addresses of all members of the conditionally certified class within 30 days from the date this order is entered.

(3) The proposed Notice of Pending Fair Labor Standards Act Lawsuit and Consent to Join Suit as Party Plaintiff, attached as Exhibits A and B to Docket # 45 are APPROVED and may be sent to the members of the conditionally certified class.

(4) Plaintiffs are hereby required to file all Consents to Join Suit as Party Plaintiff in this lawsuit on or before May 1, 2008.

DONE this 24th day of October, 2007.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE



**TAB 4**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA - NORTHERN DIVISION**

BETTY ANN BURKS, et al.,

Plaintiffs,

v.

EQUITY GROUP EUFAULA  
DIVISION LLC,

Defendant.

No. 2:06-CV-1081-MEF

**NOTICE OF PENDING FAIR LABOR STANDARDS ACT LAWSUIT.**

*This is a Court-Authorized Notice and is not a Solicitation from a Lawyer.  
The Court Has Made No Finding as to the Merits of the Case at this Time*

IF YOU ARE OR WERE EMPLOYED, SINCE MARCH 12, 2004, AS AN HOURLY PAID 1<sup>ST</sup> OR 2<sup>ND</sup> PROCESSING PRODUCTION EMPLOYEE AT EQUITY GROUP EUFAULA DIVISION, LLC, IN BAKER HILL ALABAMA, AND PAID ACCORDING TO "LINE TIME", "MASTER TIME", or your individual time clock punches were not the basis for calculating your hours worked, A COLLECTIVE ACTION LAWSUIT MAY AFFECT YOUR RIGHTS.

BETTY ANN BURKS, et al., ("Plaintiffs"), current and former hourly paid 1st or 2nd processing production employees who were paid pursuant to "line time," "master key time," or whose individual time clock punches were not the basis for hours worked while employed with EQUITY GROUP EUFAULA DIVISION, LLC ("EQUITY") have sued EQUITY in federal court alleging that EQUITY improperly failed to pay them for all hours worked and overtime hours worked in excess of forty (40) during their employment with EQUITY. As a result of these alleged practices, Plaintiffs maintain that they were unlawfully deprived of full and proper regular time and overtime compensation due to them under the FLSA. The case name is, *Betty Ann Burks, et al., v. Equity Group Eufaula Division, LLC*, CIVIL ACTION NUMBER: 2:06-cv-01081-MEF-DRB.

Plaintiffs claim that they were paid on the basis of "line time", "master key time", or that their individual time clock punches were not the basis for hours worked and as a result they were not fully paid regular time or overtime for pre-production and post-production activities as well as activities during their shift, including putting on and taking off protective and sanitary equipment/clothing at the beginning and end of the work day, putting on and taking off protective and sanitary equipment/clothing during the shift at breaks, related washing/cleaning time at the beginning and end of the shift and during breaks, waiting time and time spent walking to and from the line at the beginning and end of the day as well as at breaks, and that unpaid breaks are compensable, due to putting on equipment/clothing, taking off equipment/clothing, walk time, and wash time that occurs while employees are on break.

The Court has permitted Plaintiffs to send Notice to all similarly situated current and former hourly paid 1st and 2nd processing production employees, paid under a "line

time" or "master time" system or whose individual time clock punches were not the basis for hours worked, of EQUITY at any time within the past 3 years, so that they may be permitted to consider whether to "opt-in" to, or join, this lawsuit to assert their similar legal rights.

- EQUITY contests the Plaintiffs' allegations in this lawsuit. EQUITY claims that it has acted in accordance with all legal and contractual requirements.
- The Court has not yet decided whether EQUITY has done anything wrong or whether this case will proceed to trial. There is no money available now and no guarantees that there will be. However, you have a choice to assert your legal rights in this case.

| <b>YOUR LEGAL RIGHTS &amp; OPTIONS</b> |   |
|--|---|
| <b>Do Nothing</b>                      | <b>Do Nothing, Lose Nothing (except resulting from the passage of time).</b> By doing nothing, you retain your legal rights to bring a separate suit against EQUITY (within the applicable statute of limitations period) for allegedly unpaid regular and overtime compensation, but will not share in any recovery in this case.  |
| <b>Ask to Be Included</b>              | <b>Complete Opt-in Consent Form.</b> By "opting in" you gain the possibility of receiving money or benefits that may result from a trial or settlement, but you give up your right to separately sue EQUITY for the same legal claims brought in this lawsuit. If you choose to "opt-in" to this lawsuit, you may be required to participate in depositions and/or provide written responses in support of your claims. |

Your options are included in this Notice to Opt-in. If you wish to join in the lawsuit, you must complete the Opt-in Consent Form, place it in the enclosed self addressed stamped envelope and forward it to the attorneys designated in the Notice on or before \_\_\_\_\_, 2007. If you have any questions or concerns, please contact:

**ROBERT J. CAMP, Esquire**  
**THE COCHRAN FIRM**  
**PO BOX 927**  
**DOTHAN, AL 36302**  
**Tel: 1-800-THE-FIRM**  
**Fax: 334-793-8280**  
*Counsel for Plaintiffs*

**The law prohibits anyone from discriminating or retaliating against you for taking part in this case. If you believe that you have been penalized, disciplined, punished, threatened, intimidated, or discriminated against in any way as a result of your receiving this notification, your considering whether to complete and submit the Notice of Consent, or having submitted the Notice of Consent, you may contact THE COCHRAN FIRM at the number provided above.**

**TAB 5**

**F I N A L - May 25, 2004**

**AGREEMENT**

**by and between**

**EQUITY GROUP - EUFAULA DIVISION, LLC**

**and the**

**RETAIL, WHOLESALE AND  
DEPARTMENT STORE UNION  
AFL-CIO•CLC**

**EFFECTIVE**

**March 1, 2004**

**to**

**March 1, 2008**

**E1**

FINAL - May 25, 2004

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AGREEMENT

This Agreement made and entered into this 12th day of May, 2004, by and between Equity Group-Eufaula Division, LLC, as to its Baker Hill, Alabama plant located at 57 Melvin Clark Drive, Eufaula, Alabama, 36027 and that plant only (hereinafter referred to as the "Company"), and the Retail, Wholesale and Department Store Union, AFL-CIO, and its Alabama & Mid-South RWDSU Council (hereinafter referred to as the "Union").

ARTICLE 1 - RECOGNITION

1.1 Recognition

A. The Company hereby recognizes the Union as the exclusive bargaining agent for the following employees of the Company: all production employees and line leaders within Company excluding chicken catching crews, truck drivers, office clerical employees, Quality Assurance, HACCP, professional and exempt employees, supervisors, watchmen, guards, nurses, maintenance, refrigeration, contract employees and other employees as defined in the National Labor Relations Act as amended.

ARTICLE 2 - MANAGEMENT RIGHTS

2.1 Reserved

A. The Company reserves all rights to the management and the direction of the workforce, including the right to establish reasonable shop rules and regulations; right to hire new employees from any source, transfer, promote, counsel, warn suspend or discharge for just cause, to retire employees; the right to maintain discipline, assign and reassign employees to jobs; to transfer employees from department to department; to re-classify, upgrade, downgrade to increase and decrease the workforce; to sub-contract work as deemed appropriate; to

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schedule work hours and times, schedule breaks, schedule shift start and end times; to determine the days of the workweek; the right to determine job content and create new job classifications, to revise the content of existing jobs and to eliminate part or all of existing job classifications; to determine the product to be handled, produced, or processed; the scheduling of production and the methods, processes, and means of production or handling; and to remove employees from duty because of lack of work by voluntary means then according to seniority standing as herein provided or for other legitimate reasons, is vested exclusively in the Company, except as otherwise provided in this Agreement and provided that such action by the Company will not be used for the purpose of discrimination against any employee or the Union.

## 2.2 Discontinue Operations

A. The Company reserves the unrestricted right to suspend or curtail the operation of the plant and to discontinue processes, products, and departments in whole or in part whenever in its judgment conditions warrant such suspension, curtailment, or discontinuance.

## 2.3 Subcontracting

A. If the Company should subcontract any portion of its business, any displaced employees would be offered a position, by seniority, for which they are qualified.

# ARTICLE 3 - SENIORITY

## 3.1 Principle

A. The principles of seniority shall prevail on a plant basis in regard to layoffs, recall, transfer or promotion to bid

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positions. In order to qualify for a bid position, the individual must satisfactorily perform the work (a skill equal to the normal standards of proficiency and quality established by other employees who perform the same work) or reach the required performance within ten (10) working days' time. In the event the employee does not satisfactorily perform the work, the employee will be disqualified and the next most senior, qualified person will be assigned. In extreme cases, the Company and a designated union representative may agree in writing to extend this time two (2) or more working days.

B. When qualifications are substantially equal between two (2) or more employees, then seniority shall prevail.

### **3.2 New Employees**

A. Employees with less than ninety (90) calendar days of service shall be considered probationary and may be discharged at the sole discretion of the Company.

### **3.3 Discharge**

A. Employees having more than ninety (90) calendar days of service may be discharged for just cause and such discharge must be by written notice to the employee stating the reason for the discharge. For the purpose of this section, "just cause" shall include but shall not be limited to: dishonesty; intoxication; violation of the Company's drug and alcohol policy; harassment policy or safety policies and procedures; assault; battery; fighting; damage or theft of property or product; and professional gambling.

### **3.4 Seniority Broken**

A. The seniority service record of an employee shall be

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broken when the employee:

1. quits, or is discharged for cause
2. fails to return to work within two (2) consecutive working days after notification of recall
3. has been absent for two (2) consecutive working days without notice to the Company
4. has been laid off for a period of six (6) months
5. has accepted a position with another company while on sick leave, layoff, or suspension
6. fails to return to work due to a continuing disability or sickness for a period of six (6) months, with FMLA leave to run concurrently with any such period of disability or sickness to the extent available. Any period of disability or sickness must be supported by Company approved doctor's certificate stating that said employee would be capable of regular full-time work within six (6) months limitation described above. Further, following the expiration of any available FMLA leave, the employee is responsible for the cost of all medical benefits which must be paid to the Company in advance.

### **3.5 Seniority Lists**

A. The Company shall prepare a seniority list of all employees during the months of January and July to which the Union may object within thirty (30) working days. The list, when or if adjusted, shall be final except as to new employees.

## **ARTICLE 4 - LEAVE OF ABSENCE**

### **4.1 Personal**

A. The Company will follow the provision of the Family Medical Leave Act ("FMLA") as amended.

### **4.2 Union Business**

A. A Leave of Absence, not to exceed fourteen (14) working days, will be granted to not more than three (3) employees at a time, without loss of seniority, who have been elected or designated to attend union conventions, schools or seminars.

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Company sponsored benefit provisions may not be available through the Company during this period if Union provided benefits are available. In the event benefits remain in force, the employee will be responsible for the total costs of benefits during the leave.

#### **4.3 Applications**

A. All requests for leaves of absence must be made in writing and must be accompanied by appropriate supporting papers.

#### **4.4 Extensions**

A. All leaves not covered under FMLA may be extended at the Company's discretion.

#### **4.5 Compensation**

A. All leaves of absence will be granted without pay.

#### **4.6 Return**

A. Employees on leaves in excess of fifteen (15) working days must give at least two (2) working days' notice of their intention to return to work and pass a drug screen upon return. Employees returning from medical leave, leaves defined under the Family Medical Leave Act and leaves specific to workers' compensation must present a doctor's release to the Personnel Department before beginning work.

#### **4.7 Another Job**

A. A leave of absence will not be granted for an employee to take another job or to enter business for themselves. Any leave of absence requested or granted under false pretenses shall be grounds for immediate discharge.

#### **4.8 Funeral Leave**

A. An employee who suffers the death of a Member of the

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Immediate Family shall be granted a leave of absence of up to three (3) working days. These three (3) days will be as follows: One (1) preparation day prior to the funeral; one (1) day for the day of the funeral; and one (1) day within the seven (7) calendar days after the funeral. A non-probationary employee shall receive line time for each scheduled working day missed to attend the funeral but not to exceed twenty-four (24) hours pay at their current rate in effect in the payroll week immediately preceding the week in which the funeral leave falls. The time so paid shall not be counted as hours worked. Proof of the funeral date and relationship will be required.

B. "Members of the Immediate Family" shall mean the persons standing in only the following legitimate relationships to the employee:

1. Mother
2. Father
3. Spouse
4. Child
5. Step-Child
6. Sister
7. Brother
8. Current Step-Parent
9. Grandparent

C. In addition, a non-probationary employee may request up to a total of two additional days off, without pay, to be taken within the 7 days before or after the funeral of a Member of the Immediate Family as defined above subject to the approval of the Company.

D. An employee who suffers the death of their current Mother-in-Law or current Father-in-law may receive eight (8) hours of paid leave of absence for the day of the funeral only. Paid leave shall be at the employee's current rate of pay in

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effect in the payroll week immediately preceding the week in which the funeral leave falls.

**4.9. Jury Duty**

A. Any employee that has to serve on jury duty shall receive paid leave for the hours which the employee otherwise would have worked and shall be reimbursed by the Company for the difference between the jury duty fee and department hours for the time lost from work, up to a maximum of ten (10) working days. The employee shall present proof of the jury service and the fee. If an employee is summoned for jury duty and subsequently released or was not required to serve a full day, the employee shall report immediately for work or be counted as absent and forfeit jury duty reimbursement.

**4.10 Military Leave**

A. The Company will follow the current Universal Military Training Act.

**4.11 Family and Medical Leave Act**

A. The Company will follow the current Family and Medical Leave Act as amended.

**ARTICLE 5 - JOB VACANCIES**

**5.1 Temporary Vacancy Defined**

A. Temporary vacancies shall be offered first to employees on duty within the department who can perform the work without training and shall be granted to the most senior volunteers. If there are not sufficient volunteers, it shall be assigned to the most junior qualified employee within the department who can perform the work without training.

B. If there is not an available employee within the

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department who can perform the work without training, it shall be offered to employees on duty who can perform the work without training and shall be granted to the most senior available volunteers. If there is not sufficient volunteers, it shall be assigned to the most junior available qualified employee on duty who can perform the work without training. In cases where there is not one available who can perform the work without training, then the most junior available qualified employee who can do the work will be assigned. However, in cases of extreme emergency, any employee may be used to avoid loss of production until the above can be implemented in a reasonable time frame.

C. Temporary vacancies to exist for a period of twenty (20) working days or more shall be posted, with the understanding that the successful bidder will remain on the temporary job until the employee returns to work or ceases employment and/or is terminated. If the employee returns to work, the employee on the temporary job will be assigned to available work and have the employee's bidding rights restored.

#### 5.2 Permanent Vacancy Posted and Defined

A. A permanent vacancy is a vacancy caused by a quit, discharge, transfer, or promotion of a non-probationary employee, or the establishment of a new premium job. When a permanent vacancy occurs in a premium pay job covered by this Agreement, the Human Resources Department shall post the premium job. The following steps shall be followed:

Step 1: The premium job to be filled will be posted for three (3) working days. During this time, any qualified non-probationary employee may bid for the premium job. Within three



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(3) working days, any qualified employee may bid for the premium job by signing their name on the notice, except employees

1. with less than ninety (90) calendar days seniority; or
2. who are unable to meet the trial period because they are not actively working when assigned for the trial period; or
3. who are unable to physically perform the premium job when assigned, provided this clause does not conflict with any state or federal law; or
4. with a suspension in the last six (6) months

Step 2:

1. As soon as possible, but not to exceed fifteen (15) working days from the date of posting, the eligible, qualified senior bidder shall be assigned the premium job subject to the provisions of Article 3.1.
2. A successful bidder shall not be entitled to bid another premium job or shift change for six (6) months unless the employee's premium job has been eliminated within that period, nor shall the employee be entitled to return to employee's old job once it has been filled by another employee.

Step 3:

1. Once the employee has qualified for the employee's newly bid premium job, the employee's old premium job shall be posted in accordance with this Section. An employee, however, will have the option of returning to the employee's old job at any time during the employee's first ten (10) working days on the new premium job.
2. After ten (10) working days, the employee's old premium job will be posted in accordance with this section. In extreme cases, the Company and a designated union representative may agree, in writing, to extend this time two (2) or more working days.

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**5.3 Temporary Employees**

A. The Company may use temporary employees provided, however, that no regular employee will be displaced so long as consistent with the terms of this Article.

B. If the Company engages temporary employees, such persons shall be deemed to be employees if they have been continuously engaged by the Company and working on a daily basis for 90 consecutive days. After 90 days of continuous employment, such persons shall be deemed to be probationary employees and subject to all of the terms and conditions of this Agreement.

**ARTICLE 6 - STEWARDS AND GRIEVANCE PROCEDURE**

**6.1 Shop Stewards**

A. The Union may elect or appoint employees as shop stewards and chief stewards to handle grievances or disputes with the Company's designated representatives on Company time. The Union will keep the Company advised as to the identity of the individual shop stewards and chief stewards in writing. Shop stewards and chief stewards must be employees of the Company in order to represent employees in the grievance procedure.

B. The Company will not pay for time necessary to handle grievances, if handled outside the steward's line time.

**6.2 Grievance Procedure**

A. Should any difference, dispute, or complaint arise over the interpretation or application of this Agreement, there shall be an earnest effort on the part of both parties to settle promptly in accordance with the following procedure.

B. All grievances shall be settled using working days. Working days are defined as Monday through Friday, excluding

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contractual holidays.

C. Employees and/or stewards should talk to their immediate supervisor before going to Step 1 of the grievance procedure.

D. Procedure: The following steps shall be followed as to all grievances. Once resolved at any step of this procedure, the grievance may not be refiled on behalf of the employee or the Union.

Step 1: The Employee and/or steward must submit, on the grievance form, the matter to the shift manager within four (4) working days after the occurrence. The shift manager must render a decision within four (4) working days, if not, the grievance automatically moves to Step 2. Any grievance not presented within four (4) working days after the event shall be waived.

Step 2: If a grievance is not settled in Step 1, it shall be presented in writing by the Union steward and/or employee to the plant manager. If the grievance is not presented within three (3) working days after the first step answer, it will be considered null and void. Management must answer in writing within three (3) working days, including a brief reason for any denial of the grievance.

Step 3: If the grievance is not settled in Step 2, the grievance shall be submitted to the Human Resources Manager or designated representative, by submitting a written request to the Human Resources Manager, within five working days of the Step 2 answer. If requested by the Union, the Human Resources Manager or representative shall set up a meeting with the steward filing

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the grievance, grievant, if requested by the Union, and the Union business agent to discuss the grievance at a time and place mutually agreeable to the parties within 10 working days of the submission by the Union to Step 3. The Human Resources Manager or representative shall make a written reply to the grievance within five working days following the meeting or submission of the grievance to Step 3 if no meeting is sought by the Union.

**Step 4 - Arbitration:**

(a) Selection of Arbitrator. If a grievance is not settled in Step 3, it may be submitted to arbitration. The Executive Board for the Union shall have the sole authority to determine whether or not the employee's grievance is qualified to be submitted to arbitration by the Union. The request for arbitration shall be in writing and shall be made to the Company and the Federal Mediation and Conciliation Service (FMCS) within fifteen (15) working days of the Step 3 answer. In the event the Union does not respond in writing within fifteen (15) working days, the grievance shall be considered settled in the Company's favor. After a request has been made by the Union to the Company to submit a case to arbitration, the parties shall promptly meet for the purpose of selecting an arbitrator to hear a pending case. In the event the parties hereto are unable to agree upon the selection of an arbitrator within ten (10) working days after receipt by the Company of a request to submit a case to arbitration, a joint request by the parties hereto shall be made to the FMCS to furnish a suggested list of names of seven (7) arbitrators from which list the parties shall select one (1) arbitrator. Such selection shall be by agreement, if possible,

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otherwise the parties alternately eliminate names from said list. The parties shall strike the arbitrator within seven (7) working days upon receipt of the panel. After each party has eliminated the name of three (3) arbitrators from the list, the remaining one shall be accepted by both parties as the arbitrator to hear and decide the pending case.

(b) Arbitration Proceedings. The fee of the Arbitrator, as well as any other arbitration fee, shall be borne equally by the Union and the Company except that the cost of the transcript of the arbitration proceeding, if one is deemed necessary by either party, shall be borne by the party requesting same. The jurisdiction and authority of the Arbitrator and his opinion and award, which shall be final and binding upon the parties, shall be exclusively limited to disputes arising under the express terms of the Agreement. The Arbitrator shall have no power to add to, subtract from, or modify any of the terms of this Agreement. The Arbitrator shall not have the jurisdiction or authority to substitute his or her judgment or discretion for that of management. The Arbitrator shall be limited to rendering an award which is remedial. Any award of back pay by an Arbitrator shall be limited by the amount of wages the employee otherwise would have earned from his employment with the Company during the period involved less any compensation for personal services received from employment elsewhere, or unemployment compensation received, during the period in question. No back pay shall be awarded for any period which the employee would have been laid off. Under no circumstances shall an employee be made more than whole or receive back pay for a period of more than ten

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working days prior to the initial filing of the grievance in writing. The Arbitrator shall not have authority to pass upon questions relating to his own jurisdiction and he shall not have authority to be empowered to affect, rule upon, or grant extension or renewal of this Agreement. Neither the violation of any provision of this Agreement nor the commission of any act constituting an unfair labor practice or otherwise made unlawful by any federal, state or local laws shall excuse employees, the Union, or the Company from their obligations under the provisions of this Article.

E. Time is of the essence, and the limits strictly observed by employees, the Union and the Company. The failure of an employee or the Union to process a grievance through any one of the foregoing steps, or to do so in a timely manner, shall prevent the grievance from being considered at a subsequent step. The failure of the Company to respond in a timely manner shall be deemed an approval of the grievance. The time limits specified in this Article only may be modified or extended by written agreement signed by an authorized official of the Company and the Union. No more than one (1) extension shall be granted for any one (1) grievance.

#### 6.3 Cost of Arbitration

A. The expense of the arbitrator shall be split equally by the parties and the costs of the panel shall be paid by the requesting party.

#### 6.4 Executive Board Authority

A. At any step in the grievance procedure, the Executive Board of the Local Union shall have the final authority, in

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respect to any aggrieved employee covered by this Agreement, to decline to process a grievance, complaint, difficulty, or dispute further if in the judgment of the Executive Board such grievance lacks merit or lacks justification under the terms of this Agreement to the satisfaction of the Executive Board.

**6.5 Presence of Stewards**

A. An employee may request that a steward is present in any disciplinary action being administered to him and such request will be honored. The steward must be an employee of the Company.

**ARTICLE 7 - BULLETIN BOARDS**

**7.1 Posting**

A. The Company shall provide the Union with a bulletin board for the posting of official Union notices. Such notices will be shown to the Plant Manager before posting. The Company and the Union agree that neither party will post political material within the plant.

**ARTICLE 8 - UNION VISITS**

**8.1 Union Representation**

A. The Company shall admit to its premises two (2) union representatives who are employed by the Retail, Wholesale and Department Store Union, AFL-CIO, and its Alabama & Mid-South RWDSU Council, at any one time, who may visit inside the plant at reasonable hours. Notice of a visit shall require three (3) working days notice, in writing, to the Company. The Union shall notify the Company in writing who the representatives are by name and position with the Union. Changes in union representatives shall require three (3) working days' written notice to the

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Company. Such visits shall not interfere with the Company's operation and shall be for the express purpose of contract administration and grievance investigation. Union officials shall not go into production areas of the plant without permission of management, which reserves the right to accompany Union officials. The Company and the Union agree that neither will hand out political material on Company premises.

#### ARTICLE 9 - SAFETY AND HEALTH

##### 9.1 Occupational Safety and Health Act

A. The Company affirms its intention of complying with the provisions of the Occupational Safety and Health Act, and the Union agrees that it will support management in its efforts at compliance and general improvements of safety conditions. The Union further agrees to encourage its members to work safely and to follow the instructions of the Company in the proper care, use operation, protection, and maintenance of property, equipment, and vehicles.

##### 9.2 Accidents, Injuries

A. It shall be the responsibility of each individual employee to notify the employee's superior immediately of any accidents, injuries or defective equipment. An employee who is injured during working hours, while performing the employee's assigned work and who is physically unable to return to work on the shift as determined by medical opinion, shall be paid for the remainder of the employee's normal work shift for that day at the employee's regular basic hourly rate in an amount not to exceed eight (8) hours. Employees required by the doctor to return for further treatment of an on-the-job injury shall endeavor to make



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all doctors' appointments during non-working hours.

9.3 Joint Safety Committee

A. The Company and the Union shall establish a Joint Safety Committee consisting of two members appointed by the Company and two members appointed by the Union. The function of the Joint Safety Committee shall be to review all safety regulations, and to promote health and safety education of the employees and to meet monthly on definitely established dates for the purpose of considering safety issues, inspecting the facilities as may be necessary and recommending measures for the elimination or control of conditions which may be unsafe or hazardous to the health and safety of other employees. The Joint Safety Committee shall not discuss general grievances or otherwise consider disciplinary issues, nor shall it adopt rules or procedures. This provision does not modify the Management Rights set forth in Article 2.

ARTICLE 10 - HOLIDAYS

10.1 Holidays Defined

A. All employees having established seniority shall receive eight (8) hours' pay at their regular rate of pay for the following holidays:

New Year's Day  
Martin Luther King Day  
Memorial Day  
Fourth of July  
Labor Day

Thanksgiving Day  
Christmas Eve Day  
Christmas Day  
Birthday Holiday

10.2 Celebration

A. Holidays falling on Saturday will be observed on the preceding Friday, holidays falling on Sunday will be observed on Monday.

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**10.3 Birthday Holiday**

A. Employees providing two (2) weeks written notification prior to the Birthday Holiday shall receive eight (8) hours of pay at their regular rate of pay.

**10.4 Personal Holiday**

A. In the second year of the Agreement, employees shall be eligible to schedule a Personal Day by providing two (2) weeks written notification prior to the Personal Day, which may be granted upon mutual agreement with the employee's supervisor on a first come, first serve basis. The employee shall receive eight (8) hours of pay at their regular rate of pay for such Personal Day.

**10.5 Qualifications for Holiday Pay**

A. Employees must work their scheduled shifts before and after the holiday, without a tardy or early leave, to receive benefits.

**10.6 Hours Worked on a Holiday**

A. All hours worked on a designated holiday will be paid at straight time, in addition to holiday pay.

**10.7 Holiday in Vacation**

A. If a holiday falls during an employee's vacation week, and provided all qualifications are met, the employee shall receive the employee's regular rate of pay for eight (8) hours, in addition to vacation pay.

**ARTICLE 11 - VACATIONS**

**11.1 Length**

A. Employees who qualify shall be entitled to the following paid vacations:

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After one (1) year's seniority - one (1) week

After three (3) year's seniority - two (2) weeks

After ten (10) year's seniority - three (3) weeks

**11.2 Vacation Pay**

A. At the beginning of their vacations, and only with two (2) weeks written notification prior to the first day of vacation time being requested, employees who have completed their first anniversary shall receive forty (40) hours of pay at their regular rate of pay, provided the employee has worked sixteen-hundred (1600) or more hours in the past anniversary year.

**11.3 Vacation Period**

A. By December 1 of each year, plant management will distribute to all employees a vacation preference form on which each employee will indicate the employee's first, second and third choices. Prior to January 1, a vacation schedule will be posted. Preferences will be granted upon the basis of seniority, but in all cases the Company has the exclusive right to schedule, reschedule or postpone vacations based on business necessity. Once vacations are scheduled after January 1, no employee may bump another employee from their selected vacation slot. Employees having more than one (1) week earned vacation may take them on a staggered basis throughout the year. Vacation may be split by weeks. An employee may take up to ten (10) working days' vacation per year one (1) day at a time, provided that the employee requests approval from the employee's supervisor at least two (2) weeks in advance. An employee requesting a one (1) day vacation on Friday will be required to work on Saturday following the one (1) day vacation, unless the one (1) day

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vacation request has been made prior to the posting of weekend work.

ARTICLE 12 - HOURS OF WORK

12.1 Work Schedule

A. Work schedules for employees will vary in the Company. Operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each workday and workweek.

12.2 Overtime Pay

A. Employees will be paid overtime pay at the rate of one and one half (1-1/2) times their regular rate of pay for hours actually worked in excess of forty (40) hours per week.

12.3 Reporting Pay

A. All employees who report for work at the commencement of a scheduled shift without having been given reasonable notice of a change in schedule shall be given a minimum of four (4) hours' work, except in cases where work cannot be provided due to circumstances beyond the Company's control.

12.4 Time Cards

A. Each employee will scan in the employee's own time card immediately before the commencement of the work period and immediately at the end of the work period.

12.5 Line Time

A. All employees will be paid according to the hours of work indicated by the Master Line Time Card.

12.6 Extra Time

A. Employees designated by their supervisor or superintendent to work beyond their scheduled time shall be

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governed by their individual time card reports, which will be approved by management.

**ARTICLE 13 - MISCELLANEOUS**

**13.1 Physical Examination**

A. The Company will follow all applicable State, Federal and local laws for physical exams and drug screening as they relate to hiring, promotions, transfers, job assignments, near accidents, accidents and property damage.

**13.2 Meal/Rest Periods**

A. Employees will receive two (2) thirty (30) minute non-paid meal/rest breaks each full work day. In addition, where an employee is required to work more than 9 hours in any workday, except in the case of equipment or mechanical malfunctions or circumstances beyond the control of the Company, the employee shall be entitled to an additional 10 minute paid break to be scheduled by the Company, or to be paid for such break if not granted.

**13.3 Anti-Discrimination**

A. The Company and Union agree each will comply with all Federal, State and Local anti-discrimination laws.

**13.4 Supplies**

A. Supplies will be furnished to new employees, where required, in accordance with Company procedures as follows:

- Smocks (3)
- Arm Guards
- Cutting Glove
- Hair Net
- Beard Net
- Blue Gloves
- Cotton Gloves
- Ear Plugs
- Apron - heavy duty
- Sleeves

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B. Arm guards and cutting gloves are not provided to new employees assigned to Packout, Live Hang, Shipping and Sanitation.

C. Employees are entitled to receive, on a weekly basis, Blue Gloves (cotton liners in Shipping), Hair Nets and Beard Nets.

D. In addition, employees are entitled to receive, on the first Monday of each month, sleeves and ear plugs; and shall be entitled to receive one new smock and a heavy duty apron every 6 months as of January 1 and July 1 of each calendar year. The employee must turn in one smock in order to receive a new one without charge. If the plant is not operating on a scheduled replacement day, the replacement clothing will be distributed on the next work day that the plant is operating.

E. Employees who are required by the Company to wear boots will be provided boots at that time and may obtain replacement boots as needed in the determination of the Company, provided, however, that the employee turns in the original boots.

F. Except as noted, employees must purchase replacement supplies from the Company.

G. The Plant Manager shall approve these supply procedures. The Company reserves all rights to revise these procedures as necessary.

### 13.5 Discipline

A. If an employee has not violated any Work Rules or General Safety Rules or incurred any discipline pursuant to the general progressive disciplinary system within 24 months, the last level of discipline shall be reduced to the next lower level

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of discipline and not be considered in future discipline under the Work Rules, General Safety Rules or general progressive disciplinary system. Any remaining disciplinary levels shall be deemed reduced to the last lower level, one level at a time, if the employee does not violate any Work Rule or general safety Rule or incur any discipline under the general progressive disciplinary system every subsequent 12 months. This provision does not modify the application of the Work Rules or the General Safety Rules or the applicable discipline which may be assessed for any violation, including the right to increase the disciplinary level depending on the severity of the violation or the employee's disciplinary history which is subject to consideration.

#### **13.6 Orientation**

A. The Union shall be permitted to have a representative selected by the Union to address new employees at any formal orientation session. If no Orientation is held, the Union representative shall have the opportunity to meet with each such new employee at least one week prior to the completion of the employee's probationary period.

### **ARTICLE 14 - WAGES**

#### **14.1 Schedule A**

A. The Company shall pay its employees the amount of wages for the various classification set out in Schedule A attached hereto and made a part hereof.

#### **14.2 Pay Day**

A. Checks will be distributed at the end of the shift on Friday unless changed by the Company.

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**14.3 Incentive Pay**

A. The Company reserves the right to establish, modify, add, or delete incentive programs, as they deem appropriate, as long as the change does not violate the provisions of Schedule A.

**ARTICLE 15 - NO STRIKE - NO LOCKOUT**

**15.1 Prohibited Conduct**

A. During the whole period this Agreement is in effect, the Company shall not lock out its employees and the Union shall not authorize or sanction any strike, stoppage, slowdown, or suspension of work against the Company.

**ARTICLE 16 - CHECK-OFF**

**16.1 Collection of Dues and Remittance**

A. The Company shall, for the term of this Agreement, deduct initiation fees as authorized and shall deduct union dues, arrears, assessments and/or fees in an amount certified by the Union from the weekly wages of employees covered by this Agreement who individually and voluntarily certify in writing authorization for such deduction, until revoked pursuant to the terms of the Check-Off Authorization set forth in Article 16.2. The Company shall promptly remit all sums deducted in this manner to the Secretary-Treasurer of Local union not later than the 15th of the next month. The check off, however, is to apply only to such employees covered by this Agreement who authorize the Company in writing to so check-off. The Union agrees to defend and hold the Company harmless against expenses, repayment, or losses for any demands, claims, disputes, or lawsuits by an employee arising in any manner out of or in connection with the check-off of any amount claimed by the Union to be due it or



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having been paid it by or for any employee.

B. The wording of this labor contract shall supercede and take precedence over all other language on the check-off/authorization card.

**16.2 Check-Off Authorization Form**

A. The Company shall not deduct any monies from an employee's wages pursuant to Article 16.1 unless the Check-Off Authorization card executed by the employee conforms to the following form:

**CHECK-OFF AUTHORIZATION**

I, the undersigned employee of Equity Group-Eufaula Division, LLC (hereinafter referred to as the "Company") of my own free will and accord hereby authorize and direct the Company to deduct weekly ( ), monthly ( ), from my earnings the amount owed by me for membership dues to the Retail, Wholesale and Department Store Union, AFL-CIO, Alabama & Mid-South RWDSU Council, AFL-CIO (herein referred to as the "Union") irrespective of my membership in the Union and to transmit such amount to the Union no later than the end of the month following the month in which the deductions are made. As of the date of this authorization, such dues are \$ weekly ( ), bi-weekly ( ), monthly ( ). However, the amount of membership dues may be changed pursuant to the provisions of the Constitution of the parent body of the Union namely, the Retail, Wholesale and Department Store Union, AFL-CIO, and in the event the Union shall notify the Company in writing of the amount of the dues as so changed and upon receipt of such notification, the Company is hereby authorized to deduct from my earnings the amount of the dues as so changed.

If for any reason I should become delinquent in the payment of my membership dues to the Union, I hereby further authorize and direct the Company to deduct, each pay period, from my earnings the amount of delinquent dues, as reported to the Company by the Union and in the amount reported to the Company by the Union until the total amount of delinquent dues is paid in full.

I hereby agree that neither the Company nor the Union shall be under any liability to me for the deduction of dues from my earnings in the manner described and set forth above and that maintaining my

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continuous good standing in the Union is my personal responsibility.

I reserve the right to revoke this authorization by giving individual written notice by registered-certified mail to the Company and to the Union either during ten (10) days immediately preceding any anniversary of the date shown below or during the ten (10) days immediately preceding the termination date of any collective bargaining agreement between the Company and the Union (whichever occurs sooner) which is applicable to me as an employee of the Company and unless or until revoked in the above stated manner, this authorization shall continue in full force and effect.

Dues and fees are not tax deductible as charitable contributions but may be tax deductible as business expense.

Print Name \_\_\_\_\_ Soc. Sec. No. \_\_\_\_\_

Signature of employee \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

#### ARTICLE 17 - BENEFITS

##### 17.1 Employee Coverage

Coverage for single employees will be provided as follows through Blue Cross Blue Shield of Alabama Low Option PPO, or its equivalent:

A. Effective June 1, 2004, those employees completing their probationary period will be eligible for single employee coverage as provided in Blue Cross Blue Shield of Alabama Low Option PPO, or its equivalent. Single employee coverage costs, including increases, will be paid by the Company, with the additional costs for spousal, dependent and family costs and increases to be paid by the employee. Pending the effective date of such coverage, the present medical coverage will be continued.

B. Employees completing 12 months of employment will be

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eligible for the benefits described in Section 17.1.A plus \$125.00 per week accident and sickness benefits payable after 15 days of accident or illness for a period of 13 weeks as set forth in the applicable insurance plan, to be paid for by the Company.

**17.2 Dependent Coverage**

A. Employees may elect dependent coverage, and if so shall be responsible for payment of the applicable premium. This coverage will be as set forth in Blue Cross Blue Shield of Alabama Low Option PPO, or its equivalent.

**17.3 Substitution of Coverage**

A. So long as coverage and service levels are maintained without material change, the Company may alter insurance providers or administrators with prior notification to and opportunity for discussion with the Union.

**ARTICLE 18 - SAVINGS CLAUSE**

**18.1 Good Faith**

A. The Company and the Union each acknowledge that this Agreement has been reached as a result of good faith collective bargaining by both parties hereto and it contains the entire understanding between the parties and is to be strictly construed.

**18.2 Separability**

A. In the event any provision of this Agreement is held to be in conflict with or violation of any state or federal statute or other applicable law, administrative rule or regulation, such decision shall not affect the validity of the remaining provisions of the Agreement. The parties further agree that they will meet within thirty (30) days to renegotiate the provision or

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provisions of this Agreement held to be invalid.

ARTICLE 19 - LENGTH OF AGREEMENT

19.1 Duration

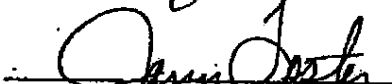
A. This Agreement shall become effective the 12th day of May, 2004 and shall remain in full force and effect until the 1st day of March, 2008, and shall remain in full force and effect for one (1) additional year thereafter unless terminated by either party by written notice to the other at least sixty (60) days prior to the 1st day of March, 2008.

THE RETAIL AND WHOLESALE DEPARTMENT  
STORE UNION, SOUTHEAST COUNCIL,  
DISTRICT COUNCIL OF THE UFCW,  
AFL-CIO-CLC

EQUITY GROUP - EUFULA DIVISION, LLC

  
Henry Jenkins  
International Vice President

  
Spence Jarvagin, General Manager

  
Jerry Foster, Representative

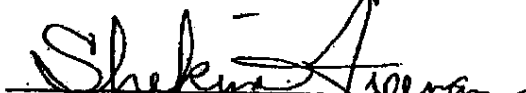
  
James Davis, Human Resources Director


  
Jacqueline Davis

  
Greg Mills, Plant Manager

  
Barbara Green

  
Kelvin Granger

  
Shekina Freeman

  
Joanne Bussey

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SCHEDULE ASection 1 - Pay Scales and Job Classifications

The following minimum base rates, effective as of the payroll week following the effective date, for all employees covered by this Agreement is as follows:

| Effective Date   | 3/01/04 | 3/01/05 | 3/01/06 | 3/01/07 |
|------------------|---------|---------|---------|---------|
| Hire Rate        | 7.00    | 7.10    | 7.20    | 7.30    |
| 90 Calendar Days | 7.25    | 7.35    | 7.55    | 7.75    |
| 1 Year           | 8.00    | 8.25    | 8.50    | 8.85    |

Section 2 - Premium Jobs

A. Effective as of the ratification of the Agreement, the following hourly premiums will be paid on these classifications after 90 calendar days:

## Processing Plant

|   |        |
|---|--------|
| 1. Knife Sharpener  | 25¢    |
| 2. Chiller Operator   | 25¢    |
| 3. Wash Station   | 25¢    |
| 4. Truck Spotter  | 50¢    |
| 5. Lift Driver  | 50¢    |
| 6. Fork Lift Operator   | 50¢    |
| 7. Pallet Jack Operator                                       | 50¢    |
| 8. Back-up Killer   | 50¢    |
| 9. USDA Insp/Helper   | 50¢    |
| 10. Mirror Trimmer  | 50¢    |
| 11. On-line Production Employees<br>Using Knives and Scissors | 50¢    |
| 12. Line Puller in Freezer                                    | 50¢    |
| 13. Line Leaders  | 70¢    |
| 14. Live Hanger   | \$1.00 |

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B. Effective beginning in the second year of the Agreement, the premium to be paid to Line Leaders shall be increased by 15¢ to 85¢.

Section 3 - Starting/Probationary Rate

The starting rates for new or rehires will be the rate shown in Section 1 of Schedule A. Employees completing the probationary period will receive the applicable increase.

Section 4 - Regular Rate Defined

The regular rate of pay for computing vacation and holiday pay will consist of the employee's base rate plus any skill premium they receive.

Section 5 - Shift Pay Differential

A premium of ten cents (10¢) per hour will be paid when a majority of the scheduled hours are worked on the 2nd or 3rd shift. Effective beginning in the second year of the Agreement, the Shift Pay Differential premium shall be increased by 5¢ to 15¢ per hour.

Section 6 - Eligibility for Premium Pay: In order to qualify for premium pay the employee must:

1. have completed 90 calendar days with the Company
2. meet the production, skill and quality requirements of the premiums pay position
3. work three (3) hours or more in the premium pay position during the workday

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**AGREEMENT**

**by and between**

**EQUITY GROUP - EUFAULA DIVISION, LLC**

**and the**

**RETAIL, WHOLESALE AND  
DEPARTMENT STORE UNION**

**EFFECTIVE**

**March 1, 2008**

**to**

**March 1, 2011**

**E 5975**

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AGREEMENT

This Agreement made and entered into this 29th day of February, 2008, by and between Equity Group-Eufaula Division, LLC, as to its Baker Hill, Alabama plant located at 57 Melvin Clark Drive, Eufaula, Alabama 36027 and that plant only (hereinafter referred to as the "Company"), and the Retail, Wholesale and Department Store Union, and its Alabama & Mid-South RWDSU Council (hereinafter referred to as the "Union").

ARTICLE 1 - RECOGNITION1.1 Recognition

A. The Company hereby recognizes the Union as the exclusive bargaining agent for the following employees of the Company: all production employees and line leaders within Company excluding chicken catching crews, truck drivers, office clerical employees, Quality Assurance, HACCP, professional and exempt employees, supervisors, watchmen, guards, nurses, maintenance, refrigeration, contract employees and other employees as defined in the National Labor Relations Act as amended.

ARTICLE 2 - MANAGEMENT RIGHTS2.1 Reserved

A. The Company reserves all rights to the management and the direction of the workforce, including the right to establish reasonable shop rules and regulations; right to hire new employees from any source, transfer, promote, counsel, warn suspend or discharge for just cause, to retire employees; the right to maintain discipline, assign and reassign employees to jobs; to transfer employees from department to department; to re-classify, upgrade, downgrade to increase and decrease the workforce; to sub-contract work as deemed appropriate; to

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schedule work hours and times, schedule breaks, schedule shift start and end times; to determine the days of the workweek; the right to determine job content and create new job classifications, to revise the content of existing jobs and to eliminate part or all of existing job classifications; to determine the product to be handled, produced, or processed; the scheduling of production and the methods, processes, and means of production or handling; and to remove employees from duty because of lack of work by voluntary means then according to seniority standing as herein provided or for other legitimate reasons, is vested exclusively in the Company, except as otherwise provided in this Agreement and provided that such action by the Company will not be used for the purpose of discrimination against any employee or the Union.

## **2.2 Discontinue Operations**

A. The Company reserves the unrestricted right to suspend or curtail the operation of the plant and to discontinue processes, products, and departments in whole or in part whenever in its judgment conditions warrant such suspension, curtailment, or discontinuance.

## **2.3 Subcontracting**

A. If the Company should subcontract any portion of its business, any displaced employees would be offered a position, by seniority, for which they are qualified.

# **ARTICLE 3 - SENIORITY**

## **3.1 Principle**

A. The principles of seniority shall prevail on a plant basis in regard to layoffs, recall, transfer or promotion to bid

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positions. In order to qualify for a bid position, the individual must satisfactorily perform the work (a skill equal to the normal standards of proficiency and quality established by other employees who perform the same work) or reach the required performance within ten (10) working days' time. In the event the employee does not satisfactorily perform the work, the employee will be disqualified and the next most senior, qualified person will be assigned. In extreme cases, the Company and a designated union representative may agree in writing to extend this time two (2) or more working days.

B. When qualifications are substantially equal between two (2) or more employees, then seniority shall prevail.

### 3.2 New Employees

A. Employees with less than ninety (90) calendar days of service shall be considered probationary and may be discharged at the sole discretion of the Company.

### 3.3 Discharge

A. Employees having more than ninety (90) calendar days of service may be discharged for just cause and such discharge must be by written notice to the employee stating the reason for the discharge. For the purpose of this section, "just cause" shall include but shall not be limited to: dishonesty; intoxication; violation of the Company's drug and alcohol policy; harassment policy or safety policies and procedures; assault; battery; fighting; damage or theft of property or product; and professional gambling.

### 3.4 Seniority Broken

A. The seniority service record of an employee shall be



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broken when the employee:

1. quits, or is discharged for cause
2. fails to return to work within two (2) consecutive working days after notification of recall
3. has been absent for two (2) consecutive working days without notice to the Company
4. has been laid off for a period of six (6) months
5. has accepted a position with another company while on sick leave, layoff, or suspension
6. fails to return to work due to a continuing disability or sickness for a period of six (6) months, with FMLA leave to run concurrently with any such period of disability or sickness to the extent available. Any period of disability or sickness must be supported by Company approved doctor's certificate stating that said employee would be capable of regular full-time work within six (6) months limitation described above. Further, following the expiration of any available FMLA leave, the employee is responsible for the cost of all medical benefits which must be paid to the Company in advance.

### **3.5 Seniority Lists**

A. The Company shall prepare a seniority list of all employees during the months of January and July to which the Union may object within thirty (30) working days. The list, when or if adjusted, shall be final except as to new employees.

## **ARTICLE 4 - LEAVE OF ABSENCE**

### **4.1 Personal**

A. The Company will follow the provisions of the Family Medical Leave Act ("FMLA") as amended.

### **4.2 Union Business**

A. A Leave of Absence, not to exceed fourteen (14) working days, will be granted to not more than three (3) employees at a time, without loss of seniority, who have been elected or designated to attend union conventions, schools or seminars.

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Company sponsored benefit provisions may not be available through the Company during this period if Union provided benefits are available. In the event benefits remain in force, the employee will be responsible for the total costs of benefits during the leave.

#### **4.3 Applications**

A. All requests for leaves of absence must be made in writing and must be accompanied by appropriate supporting papers.

#### **4.4 Extensions**

A. All leaves not covered under FMLA may be extended at the Company's discretion.

#### **4.5 Compensation**

A. All leaves of absence will be granted without pay.

#### **4.6 Return**

A. Employees on leaves in excess of fifteen (15) working days must give at least two (2) working days' notice of their intention to return to work and pass a drug screen upon return. Employees returning from medical leave, leaves defined under the Family Medical Leave Act and leaves specific to workers' compensation must present a doctor's release to the Personnel Department before beginning work.

#### **4.7 Another Job**

A. A leave of absence will not be granted for an employee to take another job or to enter business for themselves. Any leave of absence requested or granted under false pretenses shall be grounds for immediate discharge.

#### **4.8 Funeral Leave**

A. An employee who suffers the death of a Member of the

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Immediate Family shall be granted a leave of absence of up to three (3) working days. These three (3) days will be as follows: One (1) preparation day prior to the funeral; one (1) day for the day of the funeral; and one (1) day within the seven (7) calendar days after the funeral. A non-probationary employee shall receive line time for each scheduled working day missed to attend the funeral but not to exceed twenty-four (24) hours pay at their current rate in effect in the payroll week immediately preceding the week in which the funeral leave falls. The time so paid shall not be counted as hours worked. Proof of the funeral date and relationship will be required.

B. "Members of the Immediate Family" shall mean the persons standing in only the following legitimate relationships to the employee:

1. Mother
2. Father
3. Spouse
4. Child
5. Step-Child
6. Sister
7. Brother
8. Current Step-Parent
9. Grandparent

C. In addition, a non-probationary employee may request up to a total of two additional days off, without pay, to be taken within the 7 days before or after the funeral of a Member of the Immediate Family as defined above subject to the approval of the Company.

D. An employee who suffers the death of their current Mother-in-Law or current Father-in-law may receive eight (8) hours of paid leave of absence for the day of the funeral only. Paid leave shall be at the employee's current rate of pay in

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effect in the payroll week immediately preceding the week in which the funeral leave falls.

#### **4.9 Jury Duty**

A. Any employee that has to serve on jury duty shall receive paid leave for the hours which the employee otherwise would have worked and shall be reimbursed by the Company for the difference between the jury duty fee and department hours for the time lost from work, up to a maximum of ten (10) working days. The employee shall present proof of the jury service and the fee. If an employee is summoned for jury duty and subsequently released or was not required to serve a full day, the employee shall report immediately for work or be counted as absent and forfeit jury duty reimbursement.

#### **4.10 Military Leave**

A. The Company will follow the current Universal Military Training and Service Act.

#### **4.11 Family and Medical Leave Act**

A. The Company will follow the current Family and Medical Leave Act as amended.

B. Following the expiration of an employee's probationary period, an employee with seniority whose FMLA leave has expired or who is not eligible for FMLA leave may request a medical leave of absence up to a maximum of 60 days for a non-occupational illness or injury otherwise subject to FMLA medical qualifications for the employee only, so long as supported by appropriate medical evidence in the discretion of the Company. The decision with respect to requests for medical leaves of absence pursuant to this Article is solely within the discretion

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of the Company both as to the reason for the leave, the length of the leave and the number of employees who can be approved for leave at any time. Employees must return to work from any such leave as of the date designated at the time when the leave is approved by the Company. Further, employees returning from medical leave must provide a medical release which indicates their availability to perform all essential elements of their job. Employees who are unable to return from medical leave as designated by the Company or at the expiration of the 60 day maximum leave shall forfeit their seniority and be terminated. Any leave granted by the Company pursuant to this Article shall be without pay or benefits.

#### ARTICLE 5 - JOB VACANCIES

##### 5.1 Temporary Vacancy Defined

A. Temporary vacancies shall be offered first to employees on duty within the department who can perform the work without training and shall be granted to the most senior volunteers. If there are not sufficient volunteers, it shall be assigned to the most junior qualified employee within the department who can perform the work without training.

B. If there is not an available employee within the department who can perform the work without training, it shall be offered to employees on duty who can perform the work without training and shall be granted to the most senior available volunteers. If there are not sufficient volunteers, it shall be assigned to the most junior available qualified employee on duty who can perform the work without training. In cases where there is not one available who can perform the work without training,

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then the most junior available qualified employee who can do the work will be assigned. However, in cases of extreme emergency, any employee may be used to avoid loss of production until the above can be implemented in a reasonable time frame.

C. Temporary vacancies to exist for a period of twenty (20) working days or more shall be posted, with the understanding that the successful bidder will remain on the temporary job until the employee returns to work or ceases employment and/or is terminated. If the employee returns to work, the employee on the temporary job will be assigned to available work and have the employee's bidding rights restored.

#### 5.2 Permanent Vacancy Posted and Defined

A. A permanent vacancy is a vacancy caused by a quit, discharge, transfer, or promotion of a non-probationary employee, or the establishment of a new premium job. When a permanent vacancy occurs in a premium pay job covered by this Agreement, the Human Resources Department shall post the premium job. The following steps shall be followed:

Step 1: The premium job to be filled will be posted for three (3) working days. During this time, any qualified non-probationary employee may bid for the premium job. Within three (3) working days, any qualified employee may bid for the premium job by signing their name on the notice, except employees

1. with less than ninety (90) calendar days seniority; or
2. who are unable to meet the trial period because they are not actively working when assigned for the trial period; or
3. who are unable to physically

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perform the premium job when assigned, provided this clause does not conflict with any state or federal law; or

4. with a suspension in the last six (6) months

Step 2:

1. As soon as possible, but not to exceed fifteen (15) working days from the date of posting, the eligible, qualified senior bidder shall be assigned the premium job subject to the provisions of Article 3.1.
2. A successful bidder shall not be entitled to bid another premium job or shift change for six (6) months unless the employee's premium job has been eliminated within that period, nor shall the employee be entitled to return to employee's old job once it has been filled by another employee.

Step 3:

1. Once the employee has qualified for the employee's newly bid premium job, the employee's old premium job shall be posted in accordance with this Section. An employee, however, will have the option of returning to the employee's old job at any time during the employee's first ten (10) working days on the new premium job.
2. After ten (10) working days, the employee's old premium job will be posted in accordance with this section. In extreme cases, the Company and a designated union representative may agree, in writing, to extend this time two (2) or more working days.

**5.3 Temporary Employees**

A. The Company may use temporary employees provided, however, that no regular employee will be displaced so long as consistent with the terms of this Article.

B. If the Company engages temporary employees, such persons shall be deemed to be employees if they have been continuously engaged by the Company and working on a daily basis

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for six months. After six months of continuous employment, such persons shall be deemed to be probationary employees and subject to all of the terms and conditions of this Agreement. The maximum number of temporary employees who may be hired pursuant to this provision at any time shall be 100.

**ARTICLE 6 - STEWARDS AND GRIEVANCE PROCEDURE**

**6.1 Shop Stewards**

A. The Union may elect or appoint employees as shop stewards and chief stewards to handle grievances or disputes with the Company's designated representatives on Company time. The Union will keep the Company advised as to the identity of the individual shop stewards and chief stewards in writing. Shop stewards and chief stewards must be employees of the Company in order to represent employees in the grievance procedure.

B. The Company will not pay for time necessary to handle grievances, if handled outside the steward's line time.

**6.2 Grievance Procedure**

A. Should any difference, dispute, or complaint arise over the interpretation or application of this Agreement, there shall be an earnest effort on the part of both parties to settle promptly in accordance with the following procedure.

B. All grievances shall be settled using working days. Working days are defined as Monday through Friday, excluding contractual holidays.

C. Employees and/or stewards should talk to their immediate supervisor before going to Step 1 of the grievance procedure.

D. Procedure: The following steps shall be followed as to



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all grievances. Once resolved at any step of this procedure, the grievance may not be refiled on behalf of the employee or the Union.

Step 1: The Employee and/or steward must submit, on the grievance form, the matter to the shift manager within four (4) working days after the occurrence. The shift manager must render a decision within four (4) working days, if not, the grievance automatically moves to Step 2. Any grievance not presented within four (4) working days after the event shall be waived.

Step 2: If a grievance is not settled in Step 1, it shall be presented in writing by the Union steward and/or employee to the plant manager. If the grievance is not presented within three (3) working days after the first step answer, it will be considered null and void. Management must answer in writing within three (3) working days, including a brief reason for any denial of the grievance.

Step 3: If the grievance is not settled in Step 2, the grievance shall be submitted to the Human Resources Manager or designated representative, by submitting a written request to the Human Resources Manager, within five working days of the Step 2 answer. If requested by the Union, the Human Resources Manager or representative shall set up a meeting with the steward filing the grievance, grievant, if requested by the Union, and the Union business agent to discuss the grievance at a time and place mutually agreeable to the parties within 10 working days of the submission by the Union to Step 3. The Human Resources Manager or representative shall make a written reply to the grievance

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within five working days following the meeting or submission of the grievance to Step 3 if no meeting is sought by the Union.

Step 4 - Arbitration:

(a) Selection of Arbitrator. If a grievance is not settled in Step 3, it may be submitted to arbitration. The Executive Board for the Union shall have the sole authority to determine whether or not the employee's grievance is qualified to be submitted to arbitration by the Union. The request for arbitration shall be in writing and shall be made to the Company and the Federal Mediation and Conciliation Service (FMCS) within fifteen (15) working days of the Step 3 answer. In the event the Union does not respond in writing within fifteen (15) working days, the grievance shall be considered settled in the Company's favor. After a request has been made by the Union to the Company to submit a case to arbitration, the parties shall promptly meet for the purpose of selecting an arbitrator to hear a pending case. In the event the parties hereto are unable to agree upon the selection of an arbitrator within ten (10) working days after receipt by the Company of a request to submit a case to arbitration, a joint request by the parties hereto shall be made to the FMCS to furnish a suggested list of names of seven (7) arbitrators from which list the parties shall select one (1) arbitrator. Such selection shall be by agreement, if possible, otherwise the parties alternately eliminate names from said list. The parties shall strike the arbitrator within seven (7) working days upon receipt of the panel. After each party has eliminated the name of three (3) arbitrators from the list, the remaining one shall be accepted by both parties as the arbitrator to hear

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and decide the pending case.

(b) Arbitration Proceedings. The fee of the Arbitrator, as well as any other arbitration fee, shall be borne equally by the Union and the Company except that the cost of the transcript of the arbitration proceeding, if one is deemed necessary by either party, shall be borne by the party requesting same. The jurisdiction and authority of the Arbitrator and his opinion and award, which shall be final and binding upon the parties, shall be exclusively limited to disputes arising under the express terms of the Agreement. The Arbitrator shall have no power to add to, subtract from, or modify any of the terms of this Agreement. The Arbitrator shall not have the jurisdiction or authority to substitute his or her judgment or discretion for that of management. The Arbitrator shall be limited to rendering an award which is remedial. Any award of back pay by an Arbitrator shall be limited by the amount of wages the employee otherwise would have earned from his employment with the Company during the period involved less any compensation for personal services received from employment elsewhere, or unemployment compensation received, during the period in question. No back pay shall be awarded for any period which the employee would have been laid off. Under no circumstances shall an employee be made more than whole or receive back pay for a period of more than ten working days prior to the initial filing of the grievance in writing. The Arbitrator shall not have authority to pass upon questions relating to his own jurisdiction and he shall not have authority to be empowered to affect, rule upon, or grant extension or renewal of this Agreement. Neither the violation of

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any provision of this Agreement nor the commission of any act constituting an unfair labor practice or otherwise made unlawful by any federal, state or local laws shall excuse employees, the Union, or the Company from their obligations under the provisions of this Article.

E. Time is of the essence, and the limits strictly observed by employees, the Union and the Company. The failure of an employee or the Union to process a grievance through any one of the foregoing steps, or to do so in a timely manner, shall prevent the grievance from being considered at a subsequent step. The failure of the Company to respond in a timely manner shall be deemed an approval of the grievance. The time limits specified in this Article only may be modified or extended by written agreement signed by an authorized official of the Company and the Union. No more than one (1) extension shall be granted for any one (1) grievance.

#### **6.3 Cost of Arbitration**

A. The expense of the arbitrator shall be split equally by the parties and the costs of the panel shall be paid by the requesting party.

#### **6.4 Executive Board Authority**

A. At any step in the grievance procedure, the Executive Board of the Local Union shall have the final authority, in respect to any aggrieved employee covered by this Agreement, to decline to process a grievance, complaint, difficulty, or dispute further if in the judgment of the Executive Board such grievance lacks merit or lacks justification under the terms of this Agreement to the satisfaction of the Executive Board.

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**6.5 Presence of Stewards**

A. An employee may request that a steward is present in any disciplinary action being administered to him and such request will be honored. The steward must be an employee of the Company.

**ARTICLE 7 - BULLETIN BOARDS****7.1 Posting**

A. The Company shall provide the Union with a bulletin board for the posting of official Union notices. Such notices will be shown to the Plant Manager before posting. The Company and the Union agree that neither party will post political material within the plant.

**ARTICLE 8 - UNION VISITS****8.1 Union Representation**

A. The Company shall admit to its premises two (2) union representatives who are employed by the Retail, Wholesale and Department Store Union, and its Alabama & Mid-South RWDSU Council, at any one time, who may visit inside the plant at reasonable hours. Notice of a visit shall require three (3) working days notice, in writing, to the Company. The Union shall notify the Company in writing who the representatives are by name and position with the Union. Changes in union representatives shall require three (3) working days' written notice to the Company. Such visits shall not interfere with the Company's operation and shall be for the express purpose of contract administration and grievance investigation. Union officials shall not go into production areas of the plant without permission of management, which reserves the right to accompany

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Union officials. The Company and the Union agree that neither will hand out political material on Company premises.

**ARTICLE 9 - SAFETY AND HEALTH**

**9.1 Occupational Safety and Health Act**

A. The Company affirms its intention of complying with the provisions of the Occupational Safety and Health Act, and the Union agrees that it will support management in its efforts at compliance and general improvements of safety conditions. The Union further agrees to encourage its members to work safely and to follow the instructions of the Company in the proper care, use operation, protection, and maintenance of property, equipment, and vehicles.

**9.2 Accidents, Injuries**

A. It shall be the responsibility of each individual employee to notify the employee's superior immediately of any accidents, injuries or defective equipment. An employee who is injured during working hours, while performing the employee's assigned work and who is physically unable to return to work on the shift as determined by medical opinion, shall be paid for the remainder of the employee's normal work shift for that day at the employee's regular basic hourly rate in an amount not to exceed eight (8) hours. Employees required by the doctor to return for further treatment of an on-the-job injury shall endeavor to make all doctors' appointments during non-working hours.

**9.3 Joint Safety Committee**

A. The Company and the Union shall establish a Joint Safety Committee consisting of two members appointed by the Company and two members appointed by the Union. The function of

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the Joint Safety Committee shall be to review all safety regulations, and to promote health and safety education of the employees and to meet monthly on definitely established dates for the purpose of considering safety issues, inspecting the facilities as may be necessary and recommending measures for the elimination or control of conditions which may be unsafe or hazardous to the health and safety of other employees. The Joint Safety Committee shall not discuss general grievances or otherwise consider disciplinary issues, nor shall it adopt rules or procedures. This provision does not modify the Management Rights set forth in Article 2.

#### ARTICLE 10 - HOLIDAYS

##### 10.1 Holidays Defined

A. All employees having established seniority shall receive eight (8) hours' pay at their regular rate of pay for the following holidays:

|                        |                   |
|------------------------|-------------------|
| New Year's Day         | Thanksgiving Day  |
| Martin Luther King Day | Christmas Eve Day |
| Memorial Day           | Christmas Day     |
| Fourth of July         | Birthday Holiday  |
| Labor Day              | Personal Holiday  |

##### 10.2 Celebration

A. Holidays falling on Saturday will be observed on the preceding Friday, holidays falling on Sunday will be observed on Monday.

##### 10.3 Birthday Holiday

A. Employees providing one week written notification prior to the Birthday Holiday, subject to scheduling limitations based upon operational requirements, shall receive eight (8) hours of pay at their regular rate of pay.

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**10.4 Personal Holiday**

A. Employees shall be eligible to schedule a Personal Day by providing one week written notification prior to the Personal Day, which may be granted upon mutual agreement with the employee's supervisor on a first come, first serve basis, subject to scheduling limitations based upon operational requirements. The employee shall receive eight (8) hours of pay at his or her regular rate of pay for such Personal Day.

**10.5 Qualifications for Holiday Pay**

A. Employees must work their scheduled shifts before and after the holiday, without a tardy or early leave, to receive benefits.

**10.6 Hours Worked on a Holiday**

A. All hours worked on a designated holiday will be paid at straight time, in addition to holiday pay.

**10.7 Holiday in Vacation**

A. If a holiday falls during an employee's vacation week, and provided all qualifications are met, the employee shall receive the employee's regular rate of pay for eight (8) hours, in addition to vacation pay.

**ARTICLE 11 - VACATIONS**

**11.1 Length**

A. Employees who qualify shall be entitled to the following paid vacations:

After one (1) year's seniority - one (1) week

After three (3) year's seniority - two (2) weeks

After ten (10) year's seniority - three (3) weeks



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### 11.2 Vacation Pay

A. At the beginning of their vacations, and only with two (2) weeks written notification prior to the first day of vacation time being requested, employees who have completed their first anniversary shall receive forty (40) hours of pay at their regular rate of pay, provided the employee has worked sixteen-hundred (1600) or more hours in the past anniversary year.

### 11.3 Vacation Period

A. By December 1 of each year, plant management will distribute to all employees a vacation preference form on which each employee will indicate the employee's first, second and third choices. Prior to January 1, a vacation schedule will be posted. Preferences will be granted upon the basis of seniority, but in all cases the Company has the exclusive right to schedule, reschedule or postpone vacations based on business necessity. Once vacations are scheduled after January 1, no employee may bump another employee from their selected vacation slot. Employees having more than one (1) week earned vacation may take them on a staggered basis throughout the year. Vacation may be split by weeks. An employee may take up to ten (10) working days' vacation per year one (1) day at a time, provided that the employee requests approval from the employee's supervisor at least two (2) weeks in advance. An employee requesting a one (1) day vacation on Friday will be required to work on Saturday following the one (1) day vacation, unless the one (1) day vacation request has been made prior to the posting of weekend work.

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**ARTICLE 12 - HOURS OF WORK**

**12.1 Work Schedule**

A. Work schedules for employees will vary in the Company. Operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each workday and workweek.

**12.2 Overtime Pay**

A. Employees will be paid overtime pay at the rate of one and one half (1-1/2) times their regular rate of pay for hours actually worked in excess of forty (40) hours per week.

**12.3 Reporting Pay**

A. All employees who report for work at the commencement of a scheduled shift without having been given reasonable notice of a change in schedule shall be given a minimum of four (4) hours' work, except in cases where work cannot be provided due to circumstances beyond the Company's control.

**12.4 Time Cards**

A. Each employee will scan in the employee's own time card immediately before the commencement of the work period and immediately at the end of the work period.

**12.5 Line Time**

A. All employees will be paid according to the hours of work indicated by the Master Line Time Card.

B. All employees shall be paid an additional 3 minutes per day, at their regular rate, for clothes changing and cleaning time, in addition to any pay for hours worked. Such payment shall be paid at the employee's normal hourly rate.

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**12.6 Extra Time**

A. Employees designated by their supervisor or superintendent to work beyond their scheduled time shall be governed by their individual time card reports, which will be approved by management.

**ARTICLE 13 - MISCELLANEOUS**

**13.1 Physical Examination**

A. The Company will follow all applicable State, Federal and local laws for physical exams and drug screening as they relate to hiring, promotions, transfers, job assignments, near accidents, accidents and property damage.

**13.2 Meal/Rest Periods**

A. Employees will receive two (2) thirty (30) minute non-paid meal/rest breaks each full work day. In addition, where an employee is required to work more than 9 hours in any workday, except in the case of equipment or mechanical malfunctions or circumstances beyond the control of the Company, the employee shall be entitled to an additional 10 minute paid break to be scheduled by the Company, or to be paid for such break if not granted.

**13.3 Anti-Discrimination**

A. The Company and Union agree each will comply with all Federal, State and Local anti-discrimination laws.

**13.4 Supplies**

A. Supplies will be furnished to new employees, where required, in accordance with Company procedures as follows:

- Smocks
- Arm Guards
- Cutting Glove
- Hair Net

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- Beard Net
- Rubber (blue or green) Gloves
- Cotton Gloves
- Ear Plugs
- Apron - heavy duty
- Sleeves

B. Arm guards and cutting gloves are not provided to new employees assigned to Packout, Live Hang, Shipping and Sanitation.

C. Employees are entitled to receive, on a weekly basis, ear plugs and cotton liners. Employees also will be entitled to receive three Hair Nets and Beard Nets, if necessary, per week as scheduled by the Company. Employees are entitled to receive three pair of rubber gloves (blue or green) per week so long as the employee turns in the damaged or torn glove.

D. In addition, employees are entitled to receive a pair of sleeves every 2 weeks and shall be entitled to receive one smock every day. Employees shall be entitled to a heavy duty apron every 6 months as of January 1 and July 1 of each calendar year. If the plant is not operating on a scheduled replacement day, the replacement clothing will be distributed on the next work day that the plant is operating.

E. Employees who are required by the Company to wear boots will be provided boots at that time and may obtain replacement boots as needed in the determination of the Company, provided, however, that the employee turns in the original boots.

F. Except as noted, employees must purchase replacement supplies from the Company.

G. The Plant Manager may approve modifications to these supply procedures. The Company reserves all rights to revise these procedures as necessary.

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### **13.5 Discipline**

A. If an employee has not violated any Work Rules or General Safety Rules or incurred any discipline pursuant to the general progressive disciplinary system within 18 months, the last level of discipline shall be reduced to the next lower level of discipline and not be considered in future discipline under the Work Rules, General Safety Rules or general progressive disciplinary system. Any remaining disciplinary levels shall be deemed reduced to the last lower level, one level at a time, if the employee does not violate any Work Rule or general safety Rule or incur any discipline under the general progressive disciplinary system every subsequent 6 months. This provision does not modify the application of the Work Rules or the General Safety Rules or the applicable discipline which may be assessed for any violation, including the right to increase the disciplinary level depending on the severity of the violation or the employee's disciplinary history which is subject to consideration.

### **13.6 Orientation**

A. The Union shall be permitted to have a representative selected by the Union to address new employees at any formal orientation session. If no Orientation is held, the Union representative shall have the opportunity to meet with each such new employee at least one week prior to the completion of the employee's probationary period.

## **ARTICLE 14 - WAGES**

### **14.1 Schedule A**

A. The Company shall pay its employees the amount of wages

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for the various classification set out in Schedule A attached hereto and made a part hereof.

#### **14.2 Pay Day**

A. Checks will be distributed at the end of the shift on Friday unless changed by the Company.

#### **14.3 Incentive Pay**

A. The Company reserves the right to establish, modify, add, or delete incentive programs, as they deem appropriate, as long as the change does not violate the provisions of Schedule A.

### **ARTICLE 15 - NO STRIKE - NO LOCKOUT**

#### **15.1 Prohibited Conduct**

A. During the whole period this Agreement is in effect, the Company shall not lock out its employees and the Union shall not authorize or sanction any strike, stoppage, slowdown, or suspension of work against the Company.

### **ARTICLE 16 - CHECK-OFF**

#### **16.1 Collection of Dues and Remittance**

A. The Company shall, for the term of this Agreement, deduct initiation fees as authorized and shall deduct union dues, arrears, assessments and/or fees in an amount certified by the Union from the weekly wages of employees covered by this Agreement who individually and voluntarily certify in writing authorization for such deduction, until revoked pursuant to the terms of the Check-Off Authorization set forth in Article 16.2. The Company shall promptly remit all sums deducted in this manner to the Secretary-Treasurer of Local union not later than the 15th of the next month. The check off, however, is to apply only to such employees covered by this Agreement who authorize the

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Company in writing to so check-off. The Union agrees to defend and hold the Company harmless against expenses, repayment, or losses for any demands, claims, disputes, or lawsuits by an employee arising in any manner out of or in connection with the check-off of any amount claimed by the Union to be due it or having been paid it by or for any employee.

B. The wording of this labor contract shall supercede and take precedence over all other language on the check-off/authorization card.

#### **16.2 Check-Off Authorization Form**

A. The Company shall not deduct any monies from an employee's wages pursuant to Article 16.1 unless the Check-Off Authorization card executed by the employee conforms to the following form:

#### **CHECK-OFF AUTHORIZATION**

I, the undersigned employee of Equity Group-Eufaula Division, LLC (hereinafter referred to as the "Company") of my own free will and accord hereby authorize and direct the Company to deduct weekly ( ), monthly ( ), from my earnings the amount owed by me for membership dues to the Retail, Wholesale and Department Store Union, Alabama & Mid-South RWDSU Council (herein referred to as the "Union") irrespective of my membership in the Union and to transmit such amount to the Union no later than the end of the month following the month in which the deductions are made. As of the date of this authorization, such dues are \$ weekly ( ), bi-weekly ( ), monthly ( ). However, the amount of membership dues may be changed pursuant to the provisions of the Constitution of the parent body of the Union namely, the Retail, Wholesale and Department Store Union, and in the event the Union shall notify the Company in writing of the amount of the dues as so changed and upon receipt of such notification, the Company is hereby authorized to deduct from my earnings the amount of the dues as so changed.

If for any reason I should become delinquent in the payment of my membership dues to the Union, I hereby further authorize and direct the Company to

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deduct, each pay period, from my earnings the amount of delinquent dues, as reported to the Company by the Union and in the amount reported to the Company by the Union until the total amount of delinquent dues is paid in full.

I hereby agree that neither the Company nor the Union shall be under any liability to me for the deduction of dues from my earnings in the manner described and set forth above and that maintaining my continuous good standing in the Union is my personal responsibility.

I reserve the right to revoke this authorization by giving individual written notice by registered-certified mail to the Company and to the Union either during ten (10) days immediately preceding any anniversary of the date shown below or during the ten (10) days immediately preceding the termination date of any collective bargaining agreement between the Company and the Union (whichever occurs sooner) which is applicable to me as an employee of the Company and unless or until revoked in the above stated manner, this authorization shall continue in full force and effect.

Dues and fees are not tax deductible as charitable contributions but may be tax deductible as business expense.

Print Name \_\_\_\_\_ Soc.Sec.No. \_\_\_\_\_

Signature of employee \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

#### ARTICLE 17 - BENEFITS

##### 17.1 Employee Coverage

Coverage for single employees will be provided as follows through Blue Cross Blue Shield of Alabama Low Option PPO, or its equivalent:

A. Employees completing their probationary period will be eligible for single employee coverage as provided in Blue Cross Blue Shield of Alabama Low Option PPO, or its equivalent. Single employee coverage costs, including increases, will be paid by the



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Company, with the additional costs for spousal, dependent and family costs and increases to be paid by the employee.

B. Employees completing 12 months of employment will be eligible for the benefits described in Section 17.1.A plus \$125.00 per week accident and sickness benefits payable after 15 days of accident or illness for a period of 13 weeks as set forth in the applicable insurance plan, to be paid for by the Company.

#### 17.2 Dependent Coverage

A. Employees may elect dependent coverage, and if so shall be responsible for payment of the applicable premium. This coverage will be as set forth in Blue Cross Blue Shield of Alabama Low Option PPO, or its equivalent.

#### 17.3 Substitution of Coverage

A. So long as coverage and service levels are maintained without material change, the Company may alter insurance providers or administrators with prior notification to and opportunity for discussion with the Union.

### ARTICLE 18 - SAVINGS CLAUSE

#### 18.1 Good Faith

A. The Company and the Union each acknowledge that this Agreement has been reached as a result of good faith collective bargaining by both parties hereto and it contains the entire understanding between the parties and is to be strictly construed.

#### 18.2 Separability

A. In the event any provision of this Agreement is held to be in conflict with or violation of any state or federal statute or other applicable law, administrative rule or regulation, such

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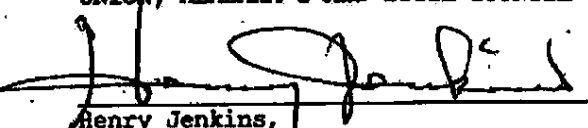
decision shall not affect the validity of the remaining provisions of the Agreement. The parties further agree that they will meet within thirty (30) days to renegotiate the provision or provisions of this Agreement held to be invalid.

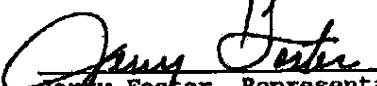
# ARTICLE 19 - LENGTH OF AGREEMENT

## 19.1 Duration

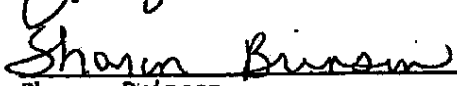
A. This Agreement shall become effective the 1st day of March, 2008 and shall remain in full force and effect until the 1st day of March, 2011, and shall remain in full force and effect for one (1) additional year thereafter unless terminated by either party by written notice to the other at least sixty (60) days prior to the 1st day of March, 2011.

RETAIL AND WHOLESALE DEPARTMENT STORE  
UNION, ALABAMA & MID-SOUTH COUNCIL

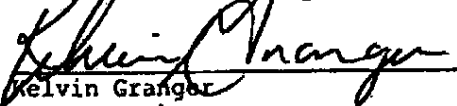
  
Henry Jenkins,  
International Vice President

  
Jerry Foster, Representative

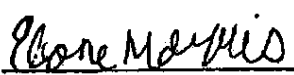
  
Jacqueline Davis

  
Sharon Brinson

  
Adrian Scovil

  
Kelvin Granger

  
Tim Smith


  
Ebone Morris

EQUITY GROUP - EUFULA DIVISION, LLC

  
Tim Esslinger, General Manager

  
Jan Bice, Human Resources Director


  
Greg Mills, Operations Manager

  
Kathy Gilmore, Assistant Human  
Resources Director

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Khodijah Culpepper

  
Sharon Jones

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**SCHEDULE A****Section 1 - Pay Scales and Job Classifications**

The following minimum base rates, effective as of the payroll week following the effective date, for all employees covered by this Agreement are as follows:

| Effective Date   | 3/01/08 | 3/01/09 | 3/01/10 |
|------------------|---------|---------|---------|
| Hire Rate        | 8.60    | 9.00    | 9.25    |
| 90 Calendar Days | 9.45    | 9.70    | 9.95    |

The Company reserves the right to increase the starting wage rates across the board for all new hires upon 30 days prior notice to the Union.

**Section 2 - Premium Jobs**

A. Effective as of the ratification of the Agreement, the following minimum hourly premiums will be paid on these classifications after 90 calendar days:

**Processing Plant**

|                         |     |
|-------------------------|-----|
| 1. Knife Sharpener      | 25¢ |
| 2. Chiller Operator     | 25¢ |
| 3. Wash Station         | 25¢ |
| 4. Truck Spotter        | 50¢ |
| 5. Lift Driver          | 50¢ |
| 6. Fork Lift Operator   | 50¢ |
| 7. Pallet Jack Operator | 50¢ |
| 8. Back-up Killer       | 50¢ |
| 9. USDA Insp/Helper     | 50¢ |
| 10. Mirror Trimmer      | 50¢ |
| 11. Palletizer          | 50¢ |

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|   |        |
|---|--------|
| 12. On-line Production Employees<br>Using Knives and Scissors | 55¢    |
| 13. Line Leaders  | \$1.00 |
| 14. Live Shackler   | \$1.50 |

Further Processing Plant

|                             |     |
|-----------------------------|-----|
| 1. Blender/Tumbler Operator | 25¢ |
| 2. Breader Operator         | 25¢ |
| 3. Pickup Technician        | 25¢ |
| 4. Bagger Operator          | 25¢ |
| 5. Batter Operator          | 25¢ |
| 6. Fryer Operator           | 50¢ |

Section 3 - Starting/Probationary Rate

The starting rates for new or rehires will be the rate shown in Section 1 of Schedule A. Employees completing the probationary period will receive the applicable increase.

Section 4 - Regular Rate Defined

The regular rate of pay for computing vacation and holiday pay will consist of the employee's base rate plus any skill premium they receive.

Section 5 - Shift Pay Differential

A premium of twenty cents (20¢) per hour will be paid when a majority of the employee's scheduled hours are worked on the 2nd shift, and a premium of thirty cents (30¢) per hour will be paid when a majority of the employee's scheduled hours are worked on the 3d shift.

Section 6 - Eligibility for Premium Pay: In order to qualify for premium pay the employee must:

1. have completed 90 calendar days with the Company
2. meet the production, skill and quality

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requirements of the premiums pay position

3. work three (3) hours or more in the premium pay position during the workday

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| Another Job                         | 4.7                    | 5           |
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| Benefits - Dependent Coverage       | 17.2                   | 28          |
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**TAB 7**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA - NORTHERN DIVISION

BETTY ANN BURKS, et al., :  
:   
Plaintiffs, :  
:   
v. : Civil Action No. 2:06-CV-1081-MEF  
:   
EQUITY GROUP EUFAULA :  
DIVISION, LLC, :  
:   
Defendant. :

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AFFIDAVIT OF ROBIN STEVENS.

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Robin Stevens, being first duly sworn according to law,  
states as follows:

1. I am the Fresh Plant Manager for the poultry processing plant operated by Equity Group-Eufaula Division, LLC ("Equity"), located in Bakerhill, Alabama, which principally engages in the slaughtering, deboning and processing of chickens.

2. I have been employed by Equity since September, 2004. I was the Quality Assurance Manager for the production facility from September, 2004 to mid-2005. I have been the Fresh Plant Manager at Equity since mid-2005.

3. Charoen Pokphand (USA), Inc. ("CP") was the previous owner of this production plant. Equity purchased this facility from CP in March of 2004.

4. Equity's production facility is comprised of two separate processing buildings -- the Fresh Plant and the Further Processing ("Cook") Plant.

5. The Fresh Plant is where live birds arrive and are slaughtered and deboned.

6. The Further Processing Plan is where chicken meat is

marinated, breaded, cooked or otherwise finished as specified by the customer.

7. In general, chicken meat processing at Equity is accomplished through the following departments:

- Live Receiving, where the live birds are unloaded from trailers and cages and hung on the processing line conveyor where they are immediately slaughtered.
- Evisceration, or First Processing, where the slaughtered birds are defeathered, trimmed, eviscerated and inspected in preparation for chilling and further processing.
- Debone, or Second Processing, where the poultry carcasses are skinned, deboned and reduced to various cuts in preparation for further processing at Equity or other facilities.
- Further Processing, or the "Cook Plant," where chicken parts undergo various processes, such as marination, breading, cooking and form cutting, in preparation for packaging and shipment to the customer.
- Pack-Off, where product is boxed, wrapped, weighed and moved to shipping.

8. Plant-wide operations are performed by three other departments:

- Sanitation, a separate shift responsible for cleaning the entire facility in preparation for the resumption of poultry processing.

- Quality Assurance, which inspects product for wholesomeness and conformity to customer specifications.
- Shipping, where raw materials are received in refrigerated trailers and placed into refrigerated coolers and the process is reversed for finished product.

9. The Hatchery, which is located at a different facility, is where the eggs laid at contract breeder farms are properly hatched and the chicks are cared for until they are transported to broiler farms where the birds are raised for slaughter.

10. Generally, the Evisceration and Debone Departments are paid according to "line time," the time actually worked measured from a specified start time, when the first piece of product is scheduled to arrive at the first position on that production line, until the last piece of product actually passes the first position on that line, less two 30 minute scheduled breaks.

11. Some production employees in the Evisceration and Debone Departments have responsibility for set-up or related work before production starts or work after regular production. These employees are paid from that start time, which is noted and recorded by line supervisors in the "KRONOS" system.

12. KRONOS is a computerized system used for recording time, attendance and computing hours worked. Production employees generally "swipe-in" or "swipe-out" through the KRONOS system upon arrival and departure from the plant at one of several KRONOS clocks.

13. The KRONOS system generally is used for recording

attendance and, in conjunction with written entries recorded by line supervisors, for computing hours worked by employees paid according to "line time."

14. Sanitation employees are paid on an incentive-based system and are paid for 8 hours daily, even if they work less than 8 hours. If a Sanitation employee works more than 8 hours, he or she is paid overtime, which is recorded by the supervisors.

15. Sanitation employees do not generally take "scheduled" breaks.

16. Employees in Shipping and Quality Assurance work set scheduled shifts, the hours of which are entered into the KRONOS system, subject to supervisory edits as may be required.

17. Hatchery employees are paid for scheduled shifts based on hours worked as recorded on individual time cards.

18. Truck drivers and office workers are paid "clock-to-clock" or directly from the KRONOS system.

19. "Production" and Sanitation employees are represented by the Retail and Wholesale Department Store Union, Alabama & Mid-South Council, for purposes of collective bargaining.

20. Other Equity employees, including hatchery workers, Quality Assurance, truck drivers and clerical, have no union representation and some of these employees do not even work at the processing plant.

21. Employees who work inside Equity's production facility only are required to wear a smock, hairnet/beard net and ear protection. The precise nature of an employee's job dictates whether other items of clothing are required.

22. Production and sanitation employees are required to

wear "non-slip" footwear of their choice, which can be worn to and from the plant. Maintenance employees are required to wear steel-toed boots, as needed, which most wear to and from the plant.

23. Production employees in the Evisceration and Debone Departments whose particular job requires the use of a knife are required to wear plastic armguards and a steel mesh glove. These items are distributed and put on while the employee is on the production line and being paid and these items are maintained and washed by Equity.

24. Employees who work in Further Processing and physically handle chicken product are required to wear rubber gloves.

25. Optional clothing items are made available for the employees, if requested, and include blue plastic aprons and sleeves, cotton and heavy rubber gloves and safety glasses.

26. Sanitation employees (in addition to the smock, hairnet/beard net and ear protection) are issued bump caps, rainsuits, heavy rubber gloves (if working with chemicals) and safety goggles.

27. Shipping Department employees (in addition to the smock, hairnet/beard net and ear protection) are issued bump caps and safety goggles (although not always required to be worn), as well as cold weather gear as may be needed in a refrigerated environment.

28. Hatchery employees are only required to wear non-slip shoes, but ear plugs are required in designated "high noise" areas.

29. Equity's Human Resources Department has identified the



current jobs held, or the last job held before termination of employment, at Equity for each of the plaintiffs involved in this proceeding. That information is contained on the spreadsheet attached hereto as Exhibit "A."

I declare under penalty of perjury that the facts set forth herein are true and correct.

  
\_\_\_\_\_  
Robin Stevens, Fresh Plant Manager

**TAB 8**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION

U.S. DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION  
8/1/2008 9:55  
*B. Littleton*

LESSIE ANDERSON, BURNICE CRETCHER :  
BRENDA GETER, BRENDA HARRIS, LISA :  
HILLMAN-JACKSON, DEXTER :  
JACKSON, ELLA LYONS, MATTIE :  
MEADOWS, DARLETTA WHITE, WANDA :  
COLEY, WILLIE FORD and DIANN :  
FREEMAN, on behalf of themselves and others :  
similarly situated. :

Plaintiffs, :

v. :

1:00-CV-166 (WLS)

CAGLE'S, INC., and CAGLE FOODS J.V., :  
L.L.C., :

Defendants. :

**ORDER**

Presently pending before the Court are: Defendant Cagle Foods JV, LLC's Motion to Decertify Class (Doc. No. 148); Defendant Cagle Foods JV, LLC's Motion to Sever Plaintiffs (Doc. No. 149); and Defendant Cagle's Inc.'s Motion to Decertify and/or to Sever. (Doc. No. 151). Also, pending is Defendant's motion to compel and for sanctions. (Doc. No. 146). Lastly, Plaintiffs have pending two motions to strike Defendants' rebuttal experts. (Tab 177, 179). For the reasons stated below, Defendants' Motions (Doc. Nos. 148, 149, 151) are **GRANTED**. Defendants' motion to compel and for sanctions (Doc. No. 146) is **GRANTED**. Plaintiffs' motions to strike (Doc. Nos. 177, 179) are **DENIED without prejudice**.

**I. OVERVIEW**

On July 11, 2002, the Court granted Plaintiffs' Motion to Facilitate Court Approved Notice and conditionally certified the collective action under 29 U.S.C. § 216(b) of the Fair Labor Standards Act ("FLSA") to recover allegedly unpaid hourly and overtime compensation owed for donning and doffing various permutations of protective clothing/equipment required for their jobs, removing of protective clothing/equipment prior to beginning lunch breaks and denial of full breaks and lunch periods due to the requirement that Plaintiffs remain on the line, after their break or lunch has started, until they have completed processing. Approximately 2200 employees or former employees of Defendants Cagle Foods JV, LLC ("Cagle Foods") and Defendant Cagle's, Inc. ("Cagle's") filed consents to opt-in to this litigation.

## II. DISCUSSION

### A. Legal Standard

The traditional analysis for collective action treatment is divided into two stages. *See Hipp v. Liberty National Life Insurance Co.*, 252 F.3d 1208, 1218-19 (11<sup>th</sup> Cir. 2001). The stage one determination is generally "made using a fairly lenient standard" because "the court has minimal evidence." *Cameron-Grant v. Maxim Healthcare Services, Inc.*, 347 F.3d 1240, 1243 (11<sup>th</sup> Cir. 2003). It is not until after discovery has been conducted, "when the court has much more information on which to base its decision," that the court makes a factual determination on the similarly situated question. *Id.* A defendant may move to decertify the class if the evidence shows that the members of a conditionally certified class are not "similarly situated." *Harper v. Lovett's Buffet, Inc.*, 185 F.R.D. 358, 365 (M.D.Ala. 1999). In the second stage, the Court requires a higher level of proof than for initial conditional certification. *Vaszlavik v. Storage Technology Corp.*, 175 F.R.D. 672, 678 (D.C.Colo. 1997). Because of the

heavier burden of proof for deciding whether the group is “similarly situated,” the Eleventh Circuit has recognized that few actions will be certified at this stage. Hipp v. Liberty Nat. Life Ins. Co., 252 F.3d at 1218.

In deciding final certification, courts have emphasized that certification as a collective action should be based on a variety of factors. Thiessen v. General Electric Capital Corp., 996 F.Supp. 1071, 1081 (D.Kan. 1998). These factors include: (1) the factual and employment settings of the individuals plaintiff, (2) the different defenses to which the plaintiffs may be subject on an individual basis, and (3) the degree of fairness and procedural impact of certifying the action as a collective action. *See* Brooks v. BellSouth Telecomm., 164 F.R.D. 561, 568 (N.D.Ala. 1995).

#### **B. Legal Analysis**

Defendants Cagle Foods and Cagle’s move the Court to decertify the putative class. For the following reasons, the Court grants decertification because opt-in Plaintiffs are not “similarly-situated.”

##### **i. Employment Setting and Factual Situation**

The putative class is composed of disparate factual and employment settings and cannot continue as a collective action. In Brooks v. BellSouth Telecomm., 164 F.R.D. at 569, conditional certification was denied when extensive discovery clearly demonstrated that the proposed opt-in Plaintiffs would span separate facilities. Specifically, Cagle Foods and Cagle’s maintained: (1) separate corporate and legal identities and locations, and (2) separate work forces.

##### **a. *Corporate and Legal Identities and Locations***

1. Cagle Foods

Prior to 1993, Cagle's operated a poultry processing complex in northern Florida. Part of its operation included a small processing plant in Camilla, Georgia as well as multiple facilities in Georgia and Alabama. In March of 1993, Cagle's and Executive Holdings, L.P. ("Executive"), an entity related to one of Cagle's then existing major customers, Keystone Foods, LLC ("Keystone"), entered into a joint venture to produce chicken meat. The joint venture created an independent company, Cagle Foods, to operate the joint venture. Cagle Foods expanded the Camilla facility to include starting the integrated poultry processing complex, including a slaughtering and processing plant, a feed mill, a hatchery, live operations and numerous contract farming facilities. In April of 1995, Cagle Foods commenced operations at a newly constructed processing facility, primarily to process raw chicken product to Keystone for distribution to its major customer, McDonald's Restaurants. In the spring of 2002, the ownership structure of Cagle Foods changed when Cagle's interest was bought out by Executive and the name of the entity was changed to Equity Group-Georgia Division, LLC ("Equity-Georgia").<sup>1</sup> Cagle's no longer holds any ownership interest in Cagle Foods. Cagle Foods is a Delaware limited liability company which was and remains a privately traded stock company and does not publicly trade any stock or file any SEC reports.

Cagle Foods has a collective bargaining agreement with the union representing its employees, Retail, Wholesale and Department Store Union ("RWDSU") Local 938. Even during that period when Cagle's was a member of Cagle Foods, Cagle Foods' Complex

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<sup>1</sup> For purposes of discussion, the Court will continue to use the name "Cagle Foods."

Manager was the chief negotiator for Cagle Foods and needed to only obtain final approval from the Steering Committee for approval of the collective bargaining agreements. The members of the bargaining committee are only employees of Cagle's Foods.

2. Cagle's

Since 1989, Cagle's has operated multiple poultry plants throughout Georgia and Alabama, including: Dalton, Forsyth, Macon, Pine Mountain Valley, Lovejoy, Bucknell, Perry and Atlanta, Georgia and Collinsville, Alabama as well as two facilities in Albany, Kentucky owned by a different company. Cagle's has its own hatchery and feed mill. Its live poultry operations, based in Dalton, Georgia, include facilities where: chicken carcasses are mechanically deboned and, cut-up chicken is marinated, breaded, frozen and packed. Cagle's is a Georgia corporation which is publicly traded with a corporate headquarters in Atlanta, Georgia. At all relevant times to this action, Cagle's has not identified Cagle Foods as a subsidiary nor has it otherwise been listed as one of Cagle's facilities, as evidenced by its 2001 Annual Report.

Most of the Cagle's poultry facilities do not have collective bargaining agreements with their employees. Although Cagle's Pine Mountain Valley and Macon plants have collective bargaining agreements with RWDSU, the agreements are separate and independent between the plants. Cagle Foods has never negotiated Cagle's collective bargaining agreements.

*b. Work Forces*

At all times relevant to this action, Cagle Foods and Cagle's have maintained separate and independent work forces.

1. Cagle Foods

Nine of the twelve original Named Plaintiffs claim to be employed by Cagle Foods.

There are opt-in Plaintiffs from the following departments or areas: Maintenance, Live Receiving, Evisceration, De-Bone, Further Processing, Pack-Off, Quality Assurance, Hatchery, Data Entry, Truck Driver, Live Haul, Live Operations and CO<sub>2</sub> Technician.

## 2. Cagle's

At the time of the filing of the action, two Named Plaintiffs worked in the Macon, Georgia live processing facility, one in the saw line of the Day Pack department and one in the De-Bone department. No longer employed with Cagle's at the time of the filing of the action, one Named Plaintiff worked in the De-Bone department of the Pine Mountain Valley, Georgia live processing facility.

### ii. Individual Defenses

There are numerous and individualized defenses unique to each Defendant which cannot be addressed on a class-wide basis. Serious procedural concerns arise when the Court is faced with individual employees, such as those of Cagle Foods and Cagle's, who can assert individual defenses that would be too unruly to try as a single action before the Court. Thiessen v. General Electric Capital Corp., 996 F.Supp. at 1084. Specifically, those employers can assert individual defenses regarding differences in methods of compensation and required items of clothing.

#### a. *Methods of Compensation*

At all times relevant to this action, Cagle Foods and Cagle's operate separate and independent methods of compensation. Moreover, whether considering Cagle Foods by itself or grouped with Cagle's multiple plants, there are divergent pay practices between some of the



departments in this case.

1. Cagle Foods

There are no consistent or overall compensation methods between the various departments. In the Evisceration and De-Bone departments, employees are paid for "line time," which is time that is measured from a specified "start time," i.e., when the first piece of product is scheduled to arrive at the first position on that line, until an "end time," i.e., when the last piece of product actually passes the first position on that line, less time for a fifteen minute paid rest break and a forty-five minute unpaid meal period. If the employees have responsibilities such as set-up or related work before regular product start time or are asked to report early or stay late, then those employees are paid from the time they clock-in to the time they clock-out.

In the Sanitation department, employees are paid by a guaranteed, incentive-based pay system and paid for eight hours daily irrespective of whether they actually work for that period of time and are generally paid overtime for any time over eight hours. Maintenance department employees are paid for a scheduled shift which is subject to supervisory edits. Feed Mill and Hatchery department employees are paid for scheduled shifts based on hours worked as recorded on individual time cards. Truck drivers and office workers are paid "clock-to-clock."

Since the joint venture was formed, all employees of the joint venture were and are employed and paid solely by Cagle Foods. Although the employees of the Evisceration, De-Bone, Sanitation and Maintenance departments are represented by RWDSU, the remaining opt-in plaintiffs have no union representation.

2. Cagle's

In the Dalton, Georgia feed mill, employees are compensated based on individual time cards. In the Forsyth, Georgia feed mill, employees are compensated based on individual time cards. In the Macon, Georgia live processing facility, production employees are compensated by line cards<sup>2</sup> and are represented by RWDSU. In the Pine Mountain Valley, Georgia live processing facility, production employees are compensated by line cards and are represented by RWDSU. Closed in March of 2001, the Lovejoy, Georgia processing facility employees were compensated based on individual time cards. Closed in August of 2000, the Bucknell, Georgia, processing facility employees were compensated based on individual time cards. In the Atlanta, Georgia, processing facility, employees are compensated based on both line cards and individual time cards. In the Collinsville, Alabama, processing facility, production employees are compensated based on individual time cards. In the Perry, Georgia, processing facility, production employees are also compensated based on individual time cards. Each plant sets its own shift start time and end time, as well as rest breaks and meal periods, with most facilities giving employees two paid rest breaks and a thirty minute unpaid meal period.

***b. Required Items of Clothing***

At all times relevant to this action, Cagle Foods and Cagle's have operated separate and independent operations and policies respecting time keeping and garments to be worn.

***1. Cagle Foods***

Cagle Foods only requires employees who work inside the production facility to wear a smock, hairnet/beardnet and ear protection. Cagle Foods requires employees to obtain a fresh

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<sup>2</sup>. "Line cars" are like punch cards that keep up with production of the employee on the line, hence the name.

smock at the plant each workday.

Depending on the precise nature of the job, additional items of clothing are required. Steel mesh gloves and plastic arm guards are required in the Evisceration and De-Bone departments which are put on while the employee are being paid. Rubber gloves are required in the Further Processing department and plastic aprons and safety glasses are optional clothing items which are worn while the employee is being paid. Bump caps, rain suits, heavy rubber gloves and safety glasses are required in the Sanitation department and the employees are paid by a guaranteed, incentive-based pay system. Bump caps and safety goggles are not always required to be worn in the Maintenance department. Depending on what specific tool or piece of equipment the employee is working with, the employee may be required to wear protective gloves, welding vests, goggles or some other protective clothing which is donned and doffed while on the clock. Ear protection and non-slip shoes are required to be worn in the Feed Mill department. In the Hatchery department employees are only required to wear non-slip shoes, but ear protection may be required in certain designated areas.

## 2. Cagle's

Most Cagle's employees are responsible for the care and maintenance of the their own required garments. In the Macon, Georgia, facility sanitation clothing is required to be on before the employees touch the product and the employees often put on and take off the equipment while walking to and from the line. Protective clothing/equipment ("PPE") is required to be on before performing tasks associated with the equipment. Employees who do not touch the product after slaughter can don and doff PPE while on the clock. Production employees working more or less than scheduled are noted by the supervisor on a report and

employees are paid based on the changed time. Maintenance employees are paid from "clock-to-clock" and no meal periods are deducted. Sanitation employees are usually paid for an eight (8) hour day.

In the Pine Valley, Georgia facility, employees are required to wear smocks, ear protection and hairnets before entering the production floor. PPE are required to be on before performing the task associated with the equipment. Some employees can don and doff PPE as they walked to the line. Any production employee working more or less than scheduled is noted by the supervisor on a report and the employee is paid for the changed time. Maintenance employees are paid from "clock-to-clock" and no meal periods are deducted. Sanitation employees are usually paid for an eight (8) hour day.

In the Lovejoy, Georgia facility, the production employees are required to wear PPE and sanitation clothing before performing the task associated with the equipment. Employees are required to be at their station at the start time, but are allowed to arrive fifteen (15) minutes late before any disciplinary action is taken. All employees ended the day at the same time, but had to wait in line to punch out on their individual punch card.

In the Bucknell, Georgia facility, the production employees are required to wear PPE and sanitation clothing before performing the task associated with the equipment. Employees are required to be at their station at the start time, but are allowed to arrive five (5) minutes late before any disciplinary action is taken. Any employee working more or less than his scheduled hours is paid accordingly, but the change is noted by a supervisor on a report.

In the Atlanta, Georgia facility, the production employees are required to wear PPE and sanitation clothing before performing tasks associated with the equipment. Employees are

required to be at their station at the start time, but are allowed to arrive five (5) minutes late before any disciplinary action is taken. Any employee working more or less than his scheduled hours is paid accordingly, but the change would be noted by a supervisor.

In the Collinsville, Alabama processing facility, production employees are required to wear smocks, ear protection and hairnets before entering the production floor. It is required that PPE be worn before working with the equipment. Some employees can don and doff PPE while on the clock. Other employees, not working on the production line, can don and doff PPE while on the clock and are not necessarily required to wear their PPE for their entire shift. Any production employee working more or less than the scheduled hours is paid accordingly, but the change is noted by a supervisor. Maintenance employees are paid from "clock-to-clock" and no meal periods are deducted. Sanitation employees are usually paid for an eight (8) hour day.

In the Perry, Georgia processing facility, production employees are required to don sanitation and PPE at the start of their shift. Other employees are expected to put on PPE before performing the task associated with the equipment; these employees can don and doff PPE while on the clock. Any production employee working more or less hours than scheduled is paid accordingly. The change, however, is noted by the supervisor on a report. Employees receive two thirty-five (35) minute breaks daily. Maintenance employees are paid from "clock-to-clock" and no meal periods are deducted. Sanitation employees are usually paid for an eight (8) hour day.

**iii. Fairness and Procedural Concerns**

Where, as here, a tenuous second-stage class exists, it has been found that fairness and

procedural considerations supported decertification of the class. See Alexander v. Fulton County, Ga., 207 F.3d 1303, 1324 (11<sup>th</sup> Cir. 2000). Plaintiffs have alleged that Defendants, jointly and severally, violated the FLSA by failing to pay hourly and overtime compensation owed for donning and doffing various permutations of PPE on a class-wide basis. However, as Defendants have demonstrated through extensive and contentious discovery, Plaintiffs are not “similarly situated” and Defendants have not been shown to have acted jointly and severally in all relevant respects as alleged. Named Plaintiffs essentially employed by a single employer, based on the discovery before the Court, cannot fairly and adequately represent the variously assigned employees, the wide variety of work assignments and varied compensation structures affecting the purported class. Therefore, decertification is warranted.

### III. DISCOVERY MOTIONS

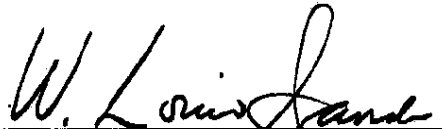
Defendant has filed a motion to compel and for sanctions against the numerous opt-in Plaintiffs that have failed to engage in discovery. (Doc. No. 146, Exhibit). Over 100 opt-in Plaintiffs have utterly failed to engage in discovery, even after repeated attempts by Plaintiffs’ attorneys to contact them. (Doc. No. 152). Defendants’ motion has been pending since November 12, 2003, and none of the subject opt-in Plaintiffs have responded to the requested discovery. Therefore, the only appropriate sanction is to dismiss these Plaintiffs from the case. Therefore, Defendants’ motion to compel and for sanctions (Doc. No. 146) is **GRANTED**.

Plaintiffs’ have filed two motions to strike the testimony of Defendants’ rebuttal experts. (Doc. Nos. 177, 179). As the motions are not relevant to the motions to decertify or to sever, the motions to strike (Doc. Nos. 177, 179) are **DENIED without prejudice**.

### III. CONCLUSION

Defendant Cagle Foods JV, LLC's Motion to Decertify Class (Doc. No. 148); Defendant Cagle Foods JV, LLC's Motion to Sever (Doc. No. 149); and Defendant Cagle's Inc. Motion to Decertify and/or to Sever. (Doc. No. 151) should be, and hereby, are **GRANTED**. Defendants' motion to compel and for sanctions (Doc. No. 146) is **GRANTED**. Plaintiffs' motions to strike Defendants' rebuttal experts (Doc. Nos. 177, 179) are **DENIED without prejudice**.

**SO ORDERED**, this 31<sup>st</sup> day of March, 2005

  
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**W. LOUIS SANDS, CHIEF JUDGE**  
**UNITED STATES DISTRICT COURT**

**TAB 9**



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
MARY LEE ALLEN

\*\*\*\*\*

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|--|---|
| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of MARY LEE ALLEN</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 21st day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2 EXAMINATION BY:           PAGE NUMBER:</p> <p>3 MR. GOULD                 7-61</p> <p>4</p> <p>5 EXHIBITS:</p> <p>6 (No exhibits were</p> <p>7 submitted to said deposition.)</p> <p>8</p> <p>9 Reporter's Certificate         63</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 *****</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4 MS. CANDIS MCGOWAN</p> <p>5 MR. JACOB A. KISER</p> <p>6 WIGGINS, CHILDS,</p> <p>7 QUINN &amp; PANTAZIS, LLC</p> <p>8 ATTORNEYS AT LAW</p> <p>9 The Kress Building</p> <p>10 301 Nineteenth Street North</p> <p>11 Birmingham, Alabama 35203</p> <p>12 (205) 314-0614</p> <p>13</p> <p>14 ON BEHALF OF THE DEFENDANT:</p> <p>15 MR. MALCOLM S. GOULD</p> <p>16 PELINO &amp; LENTZ</p> <p>17 ATTORNEYS AT LAW</p> <p>18 One Liberty Place</p> <p>19 Thirty-Second Floor</p> <p>20 1650 Market Street</p> <p>21 Philadelphia, Pennsylvania 19103</p> <p>22 (215) 665-1540</p> <p>23 *****</p> |

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| <p style="text-align: right;">6</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 ALSO PRESENT:</p> <p>4 Salintha Foster, Co-Plaintiff</p> <p>5</p> <p>6 *****</p> <p>7</p> <p>8 I, CYNTHIA M. NOAKES, a Certified</p> <p>9 Court Reporter of Eufaula, Alabama, acting as</p> <p>10 Commissioner, certify that on this date, as</p> <p>11 provided by the Alabama Rules of Civil Procedure</p> <p>12 and the foregoing stipulation of counsel, there</p> <p>13 came before me at the Law Offices of WILLIAMS,</p> <p>14 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>15 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>16 9:15 a.m., MARY LEE ALLEN, witness in the above</p> <p>17 cause, for oral examination, whereupon the</p> <p>18 following proceedings were had:</p> <p>19</p> <p>20 MARY LEE ALLEN,</p> <p>21 being first duly sworn, was examined and</p> <p>22 testified as follows:</p> <p>23</p>  | <p style="text-align: right;">8</p> <p>1 As you can see, we have a court reporter</p> <p>2 here who is taking down my questions and your</p> <p>3 answers. So I would ask that you wait until my</p> <p>4 question is finished before you give an answer.</p> <p>5 That way, we're not talking over each other. It's</p> <p>6 much easier for her to take it down.</p> <p>7 If you don't understand a question I ask,</p> <p>8 just ask me to repeat it; I'll be more than happy</p> <p>9 to try and reword the question. If you do answer</p> <p>10 my question, I'm going to assume that you</p> <p>11 understood it. And you've given an oath today to</p> <p>12 answer truthfully and to the best of your ability,</p> <p>13 so that's why it's important if you don't</p> <p>14 understand the question, you ask me to repeat it.</p> <p>15 Do you understand those instructions?</p> <p>16 A. (Witness nods head.)</p> <p>17 MS. MCGOWAN: You need to answer out</p> <p>18 loud.</p> <p>19 Q. The other part of the instruction is that</p> <p>20 you need to keep your responses oral, a yes or a</p> <p>21 no, instead of a nod of the head or an huh-uh or</p> <p>22 an uh-huh. It's difficult for the court reporter</p> <p>23 to take down what that response means.</p> |
| <p style="text-align: right;">7</p> <p>1 THE COURT REPORTER: Usual</p> <p>2 stipulations?</p> <p>3 MS. MCGOWAN: Yes.</p> <p>4 MR. GOULD: (No response.)</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 BY MR. GOULD:</p> <p>8 Q. Good morning. Could you please state your</p> <p>9 name for the record?</p> <p>10 A. Mary Lee Allen.</p> <p>11 Q. All right. Ms. Allen, my name is Malcolm</p> <p>12 Gould. I'm an attorney with the law firm of</p> <p>13 Pelino &amp; Lentz in Philadelphia. I represent the</p> <p>14 Defendant Equity Group Eufaula Division, LLC, in</p> <p>15 this lawsuit. You have opted-in to this lawsuit</p> <p>16 as a plaintiff, and we're here today to take your</p> <p>17 deposition. Do you understand that? Do you</p> <p>18 understand why you are here today?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. There's a few rules to taking a</p> <p>21 deposition. I want to make sure that you listen</p> <p>22 to the rules, because it will make the deposition</p> <p>23 go much smoother.</p> | <p style="text-align: right;">9</p> <p>1 And if at any time you feel that you need a</p> <p>2 break -- I don't anticipate that this deposition</p> <p>3 will take so long that you'll need a break, but if</p> <p>4 you do, just let me know.</p> <p>5 Now, can you please state your whole home</p> <p>6 address, please?</p> <p>7 A. P.O. Box 1292, Eufaula, Alabama 36027.</p> <p>8 Q. And do you have an actual street address?</p> <p>9 A. Yes. I stay at Barbour Creeks. I think</p> <p>10 it's 150 Meadow Lane Drive, Apartment D-3.</p> <p>11 Q. And are you currently employed with Equity</p> <p>12 Group Eufaula Division?</p> <p>13 A. No.</p> <p>14 Q. When did your employment cease?</p> <p>15 A. A year ago.</p> <p>16 Q. Okay. Are you currently employed?</p> <p>17 A. No, sir.</p> <p>18 Q. Do you recall when you began working at</p> <p>19 Equity Group?</p> <p>20 A. 2006. No, it was March 1st of 2006.</p> <p>21 Q. So you worked there for approximately a</p> <p>22 year?</p> <p>23 A. 11 months.</p>  |

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| <p style="text-align: right;">10</p> <p>1 Q. All right. And what positions were you<br/>2 employed in at the plant?<br/>3 A. Debone.<br/>4 Q. Did you work on the debone line?<br/>5 A. Yes.<br/>6 Q. And did you work on the debone line during<br/>7 the entire time that you were employed at Equity<br/>8 Group?<br/>9 A. I was moved around.<br/>10 Q. You were moved around to different positions<br/>11 on the line?<br/>12 A. Yes.<br/>13 Q. Do you recall what the names of some of the<br/>14 portions that you worked were?<br/>15 A. Leg quarters, breasts, pulling tenders, bone<br/>16 sampling, loading the line.<br/>17 Q. When you say "loading the line," that's the<br/>18 position at the very beginning of the line, where<br/>19 you put the chickens on the cones?<br/>20 A. Yes.<br/>21 Q. How did you first find out about this<br/>22 lawsuit?<br/>23 A. Could you repeat that again?</p>  | <p style="text-align: right;">12</p> <p>1 lawsuit.<br/>2 A. Yes.<br/>3 Q. All right. Do you recall how you learned<br/>4 about the lawsuit?<br/>5 A. No.<br/>6 Q. All right. Do you recall whether you<br/>7 attended any meeting where this lawsuit was<br/>8 discussed, where people talked about this lawsuit?<br/>9 A. Yes.<br/>10 Q. Can you –<br/>11 MS. MCGOWAN: I'm going to object if<br/>12 it's with the attorneys, because that would be<br/>13 covered by the attorney-client privilege.<br/>14 Q. Other than the meeting that you had this<br/>15 morning with your attorney, did you attend any<br/>16 group meetings, where there were multiple people<br/>17 discussing this lawsuit?<br/>18 A. Yes.<br/>19 Q. All right. And were there attorneys present<br/>20 at that meeting?<br/>21 A. I don't know.<br/>22 Q. Can you describe for me what you remember<br/>23 about this meeting?</p>   |
| <p style="text-align: right;">11</p> <p>1 Q. Sure. You understand that you've joined in<br/>2 this lawsuit as a plaintiff, correct?<br/>3 A. Yes.<br/>4 Q. Do you recall how you first learned about<br/>5 this lawsuit?<br/>6 A. No.<br/>7 Q. Did you attend any sort of meeting where<br/>8 this lawsuit was discussed?<br/>9 A. Could I ask a question? You have to be more<br/>10 specific because, like, big words that you use, I<br/>11 don't understand that you're saying. I don't<br/>12 understand big words. I'm a country person; I<br/>13 don't understand the big words you're asking.<br/>14 Q. Okay. Is there any particular word that I<br/>15 asked that you didn't understand?<br/>16 A. I just don't understand how to answer a<br/>17 question. If it's like a big word I don't<br/>18 understand, I'll just look at you; I can't answer.<br/>19 Q. Okay. I'll try and use small words.<br/>20 You understand that you are a plaintiff in<br/>21 this lawsuit?<br/>22 A. Yes.<br/>23 Q. And you obviously somehow learned about the</p> | <p style="text-align: right;">13</p> <p>1 MS. MCGOWAN: I'm going to object<br/>2 because I want to make sure that this wasn't a<br/>3 group meeting with the attorneys and all the<br/>4 parties, because it could have occurred before I<br/>5 got in. Can I go talk to her real quick, just to<br/>6 make sure, because I don't want to waive the<br/>7 attorney-client privilege.<br/>8 MR. GOULD: Sure. Well, you can ask<br/>9 her about that, but if there were people there who<br/>10 are not plaintiffs, then –<br/>11 MS. MCGOWAN: Right. And why don't you<br/>12 ask her that. And she may not know. I mean, it<br/>13 could have just been – I need to find out –<br/>14 MR. GOULD: If you want to step outside<br/>15 and ask her about that, that's fine.<br/>16 MS. MCGOWAN: Yeah. I just need to<br/>17 make sure we're not waiving any attorney-client<br/>18 privilege.<br/>19 (A brief recess was taken.)<br/>20 MS. MCGOWAN: I'm going to assert<br/>21 attorney-client privilege on these because these<br/>22 were attorney-client meetings. I checked with<br/>23 Robert Camp.</p> |

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| <p style="text-align: right;">14</p> <p>1 (BY MR. GOULD)</p> <p>2 Q. During the time that you were employed at</p> <p>3 Equity Group, can you describe for me --</p> <p>4 MR. GOULD: Strike that.</p> <p>5 Q. Were you required to wear any sort of</p> <p>6 clothing or protective clothing?</p> <p>7 MS. MCGOWAN: Just for the record, I'm</p> <p>8 going to have a standing objection to you calling</p> <p>9 it clothing. We say it's PPE. But we can just</p> <p>10 have that objection so I don't have to keep</p> <p>11 interrupting you.</p> <p>12 Q. We'll call it whatever it is. I'm not</p> <p>13 asking you to draw a legal conclusion as to the</p> <p>14 definition of "clothing."</p> <p>15 Did you have to wear a smock?</p> <p>16 A. Yes.</p> <p>17 Q. Did you have to wear any other items of</p> <p>18 clothing or equipment?</p> <p>19 A. Yes.</p> <p>20 Q. Can you describe for me what other items you</p> <p>21 wore?</p> <p>22 A. Hair nets, earplugs, sleeves, gloves, cotton</p> <p>23 liners, arm guard, apron, chain glove.</p> | <p style="text-align: right;">16</p> <p>1 A. Yes.</p> <p>2 Q. What about the rubber glove? Do you believe</p> <p>3 you were required to wear that?</p> <p>4 A. Yes.</p> <p>5 Q. And if you didn't wear the sleeves you're</p> <p>6 talking about -- are they these blue plastic</p> <p>7 sleeves; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you indicated that you also wore an</p> <p>10 apron. Is that a blue plastic apron?</p> <p>11 A. Yes.</p> <p>12 Q. Are you aware of anyone ever getting</p> <p>13 disciplined, written up, for not wearing cotton</p> <p>14 gloves?</p> <p>15 A. Yes.</p> <p>16 Q. Who was that?</p> <p>17 A. You know, like my coworkers on the line.</p> <p>18 Q. And you believe that they were written up</p> <p>19 for not wearing cotton gloves?</p> <p>20 A. Yes.</p> <p>21 Q. Can you remember any specific individual,</p> <p>22 any specific person who was written up for not</p> <p>23 wearing cotton gloves?</p>  |
| <p style="text-align: right;">15</p> <p>1 Q. Did you have to wear any sort of footwear or</p> <p>2 boots?</p> <p>3 A. Boots.</p> <p>4 Q. Could you wear your boots from home?</p> <p>5 A. No. You have to wear company boots.</p> <p>6 Q. Could you put your boots on before coming</p> <p>7 into the plant? Could you wear your boots from</p> <p>8 home?</p> <p>9 A. Yes.</p> <p>10 Q. Now, you indicated that you wore gloves.</p> <p>11 Can you describe for me what kind of gloves you</p> <p>12 had to wear?</p> <p>13 A. The cotton liners, they go next to your</p> <p>14 skin; and then you put the blue gloves on top.</p> <p>15 Q. Okay. So you wore cotton gloves and some</p> <p>16 sort of rubber glove?</p> <p>17 A. Yes.</p> <p>18 Q. All right. If you didn't wear a cotton</p> <p>19 glove, would you have been disciplined by the</p> <p>20 company?</p> <p>21 A. Yes.</p> <p>22 Q. So you believe you were required to wear the</p> <p>23 cotton glove?</p>  | <p style="text-align: right;">17</p> <p>1 A. I don't remember.</p> <p>2 Q. Were you ever written up for not wearing</p> <p>3 cotton gloves?</p> <p>4 A. Maybe, maybe not. I can't be specific.</p> <p>5 Q. So you don't specifically remember any time</p> <p>6 when you were written up for not wearing cotton</p> <p>7 gloves; is that correct?</p> <p>8 A. I probably was written up. What I'm saying,</p> <p>9 I can't be for sure.</p> <p>10 Q. So you're not certain whether or not you</p> <p>11 were. You can't recall any specific time or</p> <p>12 instance when you were written up?</p> <p>13 A. I know that it was brought to my attention</p> <p>14 that, you know, I don't have on a cotton liner.</p> <p>15 Like, you know, if my plastic glove, you know,</p> <p>16 tore, I don't have on a cotton liner, and I would</p> <p>17 have to go and get one.</p> <p>18 Q. Now, you talked about wearing a chain glove?</p> <p>19 A. Yes.</p> <p>20 Q. Is that something that you would have to</p> <p>21 take home with you on a daily basis?</p> <p>22 A. Not the chain glove.</p> <p>23 Q. Is that something that was issued to you on</p> |

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| <p style="text-align: right;">18</p> <p>1 the debone line?</p> <p>2 A. Yes.</p> <p>3 Q. Every day?</p> <p>4 A. Yes.</p> <p>5 Q. You weren't required to take it home and</p> <p>6 clean it?</p> <p>7 A. No.</p> <p>8 Q. You weren't required to take it and wash it</p> <p>9 in between breaks; is that correct?</p> <p>10 A. No.</p> <p>11 Q. You would just take it off on the line,</p> <p>12 someone would come along and collect it; and then</p> <p>13 when you came back onto the line, you would get</p> <p>14 another one; is that correct?</p> <p>15 A. Same one.</p> <p>16 Q. You mentioned an arm guard?</p> <p>17 A. Yes.</p> <p>18 Q. Can you describe what you mean by that for</p> <p>19 me?</p> <p>20 A. It's a hard piece of plastic about that long</p> <p>21 (indicating). It sits on your arm, from here to</p> <p>22 right about right here (indicating).</p> <p>23 Q. So it would cover essentially your wrist</p>  | <p style="text-align: right;">20</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall what union that was?</p> <p>3 A. I think it was union rep.</p> <p>4 Q. Do you recall whether you had union dues</p> <p>5 deducted from your paycheck?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall who any of the members of the</p> <p>8 union committee, the bargaining committee were?</p> <p>9 A. Talking about the people?</p> <p>10 Q. Right. Did you have union stewards?</p> <p>11 A. Yes.</p> <p>12 Q. People from the union who you could go and</p> <p>13 talk to?</p> <p>14 A. Yes.</p> <p>15 Q. Who were actual employees at the plant?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall any of their names?</p> <p>18 A. I remember just one lady.</p> <p>19 Q. And who is that?</p> <p>20 A. Her name is Jackie Smith.</p> <p>21 Q. Did you ever attend any union meetings?</p> <p>22 A. If I got, like, wrote up, you know, they</p> <p>23 would look in my file and call a union rep to be</p>   |
| <p style="text-align: right;">19</p> <p>1 part of your forearm; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Did you have to wear that for every position</p> <p>4 in which you worked on the debone line?</p> <p>5 A. If you were working with knives or scissors,</p> <p>6 you must have it on.</p> <p>7 Q. And I believe you indicated sometimes you</p> <p>8 worked in the position where you were loading the</p> <p>9 line, putting the chickens onto the cones?</p> <p>10 A. Yes.</p> <p>11 Q. Did you have to wear an arm guard in that</p> <p>12 position?</p> <p>13 A. No.</p> <p>14 Q. Did you have to wear a chain glove in that</p> <p>15 position?</p> <p>16 A. No.</p> <p>17 Q. So there are positions on the debone lines</p> <p>18 that don't use knives or scissors; is that</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Are you a member of the union? Or were you</p> <p>22 a member of the union when you were employed at</p> <p>23 Equity Group?</p> | <p style="text-align: right;">21</p> <p>1 present, you know.</p> <p>2 Q. Do you recall how many times you were</p> <p>3 written up during the time that you were employed</p> <p>4 at Equity Group?</p> <p>5 A. That would be depending on the situation,</p> <p>6 you know, if I be written up or not. You might</p> <p>7 get a warning, you know.</p> <p>8 I guess, just to be on the safe side, they</p> <p>9 would have a union rep before anybody, you know,</p> <p>10 would start talking or whatever. I guess that was</p> <p>11 their policy.</p> <p>12 Q. Do you recall any specific time that you</p> <p>13 were written up or given a written warning?</p> <p>14 A. Yes.</p> <p>15 Q. Can you describe for me the circumstances of</p> <p>16 that?</p> <p>17 A. Not being on the line quick enough --</p> <p>18 getting to the line, you know.</p> <p>19 Q. So you were written up for not being on the</p> <p>20 line when you had to be there; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Can you describe for me that particular</p> <p>23 situation? Were you late to work?</p> |



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| <p style="text-align: right;">22</p> <p>1 A. No, I don't be late to work. It just be so<br/>2 many people and everything be so packed, you can't<br/>3 get to the area where you can suit up, you know.<br/>4 Q. And that was at the beginning of your shift?<br/>5 A. Yes.<br/>6 Q. Do you recall any other instances when you<br/>7 were written up?<br/>8 A. Yes. The line -- work been done start, and<br/>9 I haven't got my supplies yet because the line<br/>10 still be, you know, real long.<br/>11 Q. So you were written up for waiting in line?<br/>12 A. Yes. A lot of people.<br/>13 Q. Was this at the beginning of your shift?<br/>14 A. Yes.<br/>15 Q. So you believe you were written up for, once<br/>16 again, not being on the line when the line<br/>17 started?<br/>18 A. Yes. But can't help but be written up. If<br/>19 you ain't got your supplies, you can't go in<br/>20 there.<br/>21 Q. At the beginning of a shift, were there some<br/>22 things that you had to pick up on a daily basis?<br/>23 A. Probably earplugs, cotton liners, fresh</p> | <p style="text-align: right;">24</p> <p>1 day?<br/>2 A. No.<br/>3 Q. So these were things that were issued to<br/>4 you, and you could wear them on more than one day?<br/>5 A. Yes. The plastic apron and the sleeves.<br/>6 Q. And you indicated that you wore a hair net;<br/>7 is that correct?<br/>8 A. Yes.<br/>9 Q. Did you have to get a new hair net every<br/>10 day?<br/>11 A. Sometimes I did. Sometimes.<br/>12 Q. So you didn't have to get one every day.<br/>13 Sometimes you would get a new hair net.<br/>14 A. But the majority of time, I did.<br/>15 Q. What was the process for getting a new hair<br/>16 net?<br/>17 A. Well, like the meat that's come around, just<br/>18 whatever the thing up in there with the birds on<br/>19 it, you know, the blood and stuff drop on your<br/>20 hair net and clothing.<br/>21 Q. Well, let me ask you what my question was.<br/>22 What did you have to do to get the hair net, to<br/>23 replace it? To get it in the morning, at the</p> |
| <p style="text-align: right;">23</p> <p>1 rubber gloves, maybe sleeves.<br/>2 Q. Those are things you had to pick up every<br/>3 single day?<br/>4 A. You know, if it was torn or worn out or just<br/>5 real filthy, you know.<br/>6 Q. So those are things that you would have to<br/>7 replace if they became worn?<br/>8 A. Yes.<br/>9 Q. They were not things that you were required<br/>10 to replace on a daily basis; is that correct? You<br/>11 could wear the rubber gloves, for example, for<br/>12 more than one day?<br/>13 A. If they were very, very clean, you know.<br/>14 Q. What about the cotton liners? You could<br/>15 wear them on more than one day; is that correct?<br/>16 A. Sometimes; sometimes you couldn't.<br/>17 Q. What about your apron?<br/>18 A. The plastic one?<br/>19 Q. Yes. Your blue plastic apron. Is that<br/>20 something that you had to pick up every day?<br/>21 A. No.<br/>22 Q. And what about the blue plastic sleeves.<br/>23 Was that something that you had to pick up every</p>   | <p style="text-align: right;">25</p> <p>1 beginning of your shift?<br/>2 A. Just go to the supply -- the supply --<br/>3 Q. To the supply room? supply desks?<br/>4 A. Yes.<br/>5 Q. Right by the one entrance to the plant?<br/>6 A. Yes.<br/>7 Q. Now, you also indicated that you would wear<br/>8 a smock?<br/>9 A. Yes.<br/>10 Q. Is that something that you would get a new<br/>11 one on a daily basis?<br/>12 A. Not all the time. Not all the time.<br/>13 Talking about the white smock, right?<br/>14 Q. Yes, ma'am.<br/>15 A. Not all the time.<br/>16 Q. So sometimes you would wear the same smock?<br/>17 A. Yes.<br/>18 Q. More than one day?<br/>19 A. Yes. Sometimes, you know, it was at a point<br/>20 where you would take them home, you know, and wash<br/>21 them or whatever. I would, like, wash mine. Then<br/>22 they got to a place where they didn't allow us to<br/>23 take them out of the plant, you know.</p>   |

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| <p style="text-align: right;">26</p> <p>1 Q. Okay. So there was a time when you were<br/>2 allowed to take your smock home?<br/>3 A. Yes.<br/>4 Q. And then there was a point in time when you<br/>5 were no longer allowed to take your smock home?<br/>6 A. Yes.<br/>7 Q. And then you had to pick a new one up on a<br/>8 daily basis?<br/>9 A. Yes. If they have one.<br/>10 Q. So just so I'm clear, when you started<br/>11 working at Equity, you believe that you were able<br/>12 to take your smock home; is that correct?<br/>13 A. At one point you was.<br/>14 Q. Do you remember when it was that you were<br/>15 allowed to, and then when that policy changed?<br/>16 A. I can't remember when the policy changed,<br/>17 but I remember there was one point that we could<br/>18 take them home and wash them. You would take the<br/>19 smock home and wash them and then bring them back<br/>20 fresh the next morning, or whenever your shift<br/>21 was.<br/>22 Q. Could you describe to me generally what you<br/>23 would do at the beginning of your shift?</p>  | <p style="text-align: right;">28</p> <p>1 through.<br/>2 Q. And were there people who were issued<br/>3 stickers or things to put on their car that would<br/>4 show that they were employed at Equity Group?<br/>5 A. Well, this last time that I worked there,<br/>6 they had where they put a sticker at your<br/>7 beginning of your windshield or whatever, you<br/>8 know.<br/>9 Q. And if the car had that sticker, it could<br/>10 just drive through; is that correct?<br/>11 A. Yes, after they look at your card. You have<br/>12 to stop at the guard shack; they're going to look<br/>13 at your ID card.<br/>14 Q. And then after that, you drive into the<br/>15 parking lot; is that correct?<br/>16 A. Yes.<br/>17 Q. And then from the parking lot, you go into<br/>18 the plant; is that correct?<br/>19 A. Yes.<br/>20 Q. At any time, from the time that you parked<br/>21 in the parking lot until the time that you went<br/>22 into the plant, did you have to go through any<br/>23 sort of security gates, turnstiles, metal</p> |
| <p style="text-align: right;">27</p> <p>1 A. At the beginning of the shift, depending on<br/>2 where they put me at, you know. I'd never know<br/>3 where I was going to be working at, you know,<br/>4 until they place everybody.<br/>5 I might load the line; I might cut wing<br/>6 tips; I might roll wings; I might pull breasts; I<br/>7 might pull skin; I might pull tenders; I might<br/>8 bone something; I might load the line, like I<br/>9 said.<br/>10 Q. All right. When you were arriving at the<br/>11 plant, did you have to pass through any sort of<br/>12 security?<br/>13 A. Well, you know, the -- what is it, the guard<br/>14 shack? You come through the guard shack. You<br/>15 know, you have to stop at the guard shack. I<br/>16 guess they, like, they look at your timecard to<br/>17 make sure that you belong there. Then they'll let<br/>18 you on through.<br/>19 Q. So you're talking about at the driveway, at<br/>20 the beginning of the driveway?<br/>21 A. No. When you first come into the Equity<br/>22 Group, that little guard shack, everybody would<br/>23 have to stop there. You couldn't just drive on</p> | <p style="text-align: right;">29</p> <p>1 detectors, anything like that?<br/>2 A. There's a certain way we have to enter the<br/>3 building. You couldn't just go in just any door<br/>4 that you saw; it was certain specific entrance<br/>5 that employees was allowed to come through.<br/>6 Q. So there were specific doors that you were<br/>7 requested to use to enter the plant?<br/>8 A. Yes. And to go back out.<br/>9 Q. But was there any sort of security system at<br/>10 those doors? Did you have to walk through any<br/>11 turnstiles? Do you know what a turnstile is?<br/>12 A. No.<br/>13 Q. Those things with the little bars that spin<br/>14 as you walk through.<br/>15 A. No.<br/>16 Q. So there was none of those?<br/>17 A. No.<br/>18 Q. Were there metal detectors?<br/>19 A. No.<br/>20 Q. Was there a security guard stationed there<br/>21 at the door that you had to show ID to enter?<br/>22 A. No.<br/>23 Q. Okay. So once you would enter the door into</p>  |



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| <p style="text-align: right;">30</p> <p>1 the plant, at the beginning of your shift, what's</p> <p>2 the next thing that you would normally do?</p> <p>3 A. I would go get in line to get my supplies,</p> <p>4 if I needed supplies.</p> <p>5 Q. Now, were there certain pieces of your</p> <p>6 clothing or equipment that you would take home</p> <p>7 with you on a daily basis?</p> <p>8 A. Like I said, at one point we could take our</p> <p>9 smocks home and the cotton liners. I would wash</p> <p>10 them, you know, and bring them back the next day</p> <p>11 with me. And my sleeves and my apron, I would</p> <p>12 take that home; and I would wash all that, you</p> <p>13 know, and I would bring that back.</p> <p>14 But, now, most of the time, like my blue</p> <p>15 gloves, they would be torn or they're just real</p> <p>16 filthy, you know. I would have to do away with</p> <p>17 them and buy more, get more gloves, you know. You</p> <p>18 know, when the shift is over, or I'd wait until I</p> <p>19 come in the next door or whatever, and buy more.</p> <p>20 Q. And what about your plastic arm guard? Is</p> <p>21 that something you would take home with you as</p> <p>22 well?</p> <p>23 A. You would take that home at all times. Keep</p> | <p style="text-align: right;">32</p> <p>1 But to just walk in there, you have to have</p> <p>2 your hair net on and your earplugs on, and your</p> <p>3 boots.</p> <p>4 Q. So to walk onto the production floor, you</p> <p>5 had to have on hair net, earplugs, and boots?</p> <p>6 A. Yes. And you have to step into this little</p> <p>7 pool thing for your boots to get sanitized or</p> <p>8 whatever. And there be a machine that, I guess</p> <p>9 every so often, it would spray out this type of</p> <p>10 foam across your boots, and then you could walk on</p> <p>11 in.</p> <p>12 Q. So you just have to walk through that on</p> <p>13 your way in to the production floor; is that</p> <p>14 correct?</p> <p>15 A. Yes. Walk in and out, you have to walk</p> <p>16 through there.</p> <p>17 Q. So just so I'm clear, this area where</p> <p>18 there's that sanitizer for your boots, you just</p> <p>19 walk through it?</p> <p>20 A. You have to walk through it, in order to get</p> <p>21 out.</p> <p>22 Q. There's no way to avoid it; you walk through</p> <p>23 that area?</p>  |
| <p style="text-align: right;">31</p> <p>1 up with that.</p> <p>2 Q. So if you had to pick up supplies, what</p> <p>3 would you do after you picked up supplies?</p> <p>4 A. Well, if it's not time to get on the line, I</p> <p>5 would go sit in the break area and just wait until</p> <p>6 it's time for us to -- our shift to start, you</p> <p>7 know.</p> <p>8 Q. And are there certain items of clothing or</p> <p>9 equipment that you could put on before going out</p> <p>10 onto the production area?</p> <p>11 A. Huh-uh.</p> <p>12 Q. And that's a no?</p> <p>13 A. No. Well, there was one point where you</p> <p>14 could have your hair net on, you know. You could</p> <p>15 have your hair net on and your earplugs.</p> <p>16 But then it came to a point where you</p> <p>17 couldn't put that on until you, like, get ready to</p> <p>18 -- once you go -- it's like two separate doors.</p> <p>19 There's a little booth you can get dressed</p> <p>20 in right there. You could put your apron and your</p> <p>21 earplugs on. And you could put your white coat</p> <p>22 on, and then walk on in and finished getting</p> <p>23 dressed.</p>  | <p style="text-align: right;">33</p> <p>1 A. Yeah, you have to walk through it.</p> <p>2 Q. It's not some special thing that you have to</p> <p>3 do separately; is that correct?</p> <p>4 MS. MCGOWAN: I object to the form.</p> <p>5 Q. In order to sanitize your boots, you don't</p> <p>6 have to go to some special area that you otherwise</p> <p>7 would not have to go to on your way out to the</p> <p>8 production floor; is that correct?</p> <p>9 A. I don't understand what you're saying.</p> <p>10 Q. Is there a separate part of the plant that</p> <p>11 is a boot sanitizing area?</p> <p>12 A. The only one I ever saw was, like I told</p> <p>13 you, entering into the -- coming in on the line,</p> <p>14 it's right there, when you walk in through that</p> <p>15 little door.</p> <p>16 Q. Right. I understand. So there's the</p> <p>17 entryway to the production area?</p> <p>18 A. Yes.</p> <p>19 Q. And you just walk through that place where</p> <p>20 the sanitizer is?</p> <p>21 A. You've got to walk through there, to get to</p> <p>22 them other doors to start work or whatever.</p> <p>23 Q. And then after that, you would step onto the</p> |

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| <p style="text-align: right;">34</p> <p>1 production floor; is that correct, the production<br/>2 area?<br/>3 A. Talking about the line?<br/>4 Q. Yes.<br/>5 A. After you get suited up. You know, you've<br/>6 got to go over to the sink area. They have this,<br/>7 like, big thing where, you know, you can hang your<br/>8 -- you know, you can lay your items and get<br/>9 dressed, you know. Once you do that, then you<br/>10 turn around and -- you're supposed to, like, wash<br/>11 your hands, rinse your apron if it need it or<br/>12 whatever, and then go to the line.<br/>13 Q. So once you walk through the door to the<br/>14 production floor, there's an area where there were<br/>15 racks and sinks?<br/>16 A. Yes.<br/>17 Q. There were these metal racks where you could<br/>18 hang stuff?<br/>19 A. Yes.<br/>20 Q. And that's where you'd put on the rest of<br/>21 your clothing or equipment; is that correct?<br/>22 A. Yes. Sometimes.<br/>23 Q. With the exception of your metal glove --</p>  | <p style="text-align: right;">36</p> <p>1 Then sometimes we would go and get on the<br/>2 line, they might be already placed. And they just<br/>3 place you on the line where they want you to work<br/>4 at. And you would just pick your chain glove up<br/>5 and put it on. Because they know what size you<br/>6 wear, you know.<br/>7 Q. And once you would walk onto the production<br/>8 floor, do you have any idea how long it would take<br/>9 you to put on your clothing or equipment?<br/>10 A. I'd say about 15 minutes, if I can get up<br/>11 there to it.<br/>12 Q. 15 minutes, from the time you step onto the<br/>13 production floor until the time you have<br/>14 everything on?<br/>15 A. Yes. About 10 or 15 minutes, yes.<br/>16 Q. Did you work day shift or night shift?<br/>17 A. Both, day shift and night shift. I worked<br/>18 day shift at one point, then I transferred to<br/>19 night shift.<br/>20 Q. So at the time your employment with Equity<br/>21 Group ended, you were working night shift; is that<br/>22 correct?<br/>23 A. Well, this very last time I was on nights.</p> |
| <p style="text-align: right;">35</p> <p>1 your mesh glove? If you were wearing a mesh<br/>2 glove, would you put that on then or would you put<br/>3 that on when you got to the line?<br/>4 A. What's a mesh glove?<br/>5 Q. Your chain glove.<br/>6 A. Oh. You put the chain glove on depending on<br/>7 what position they're going to put you at. If<br/>8 you're fixin' to work with knives and scissors,<br/>9 they issue you a chain glove; but if not, you<br/>10 don't get a chain glove.<br/>11 See, like, if you're pulling tenders or<br/>12 loading the line or bone sampling, you don't need<br/>13 a chain glove; but anything else, you have to have<br/>14 a chain glove because you're working with knives<br/>15 and scissors.<br/>16 Q. And that glove would be issued to you at the<br/>17 production line?<br/>18 A. Yes. Or sometimes it would be issued at<br/>19 this desk where the, like, line leaders stand<br/>20 around, the supervisors. It would be issued<br/>21 there. If not, once you go to your line, wherever<br/>22 they place you -- they place you where they want<br/>23 you to work; you just don't get on the line.</p> | <p style="text-align: right;">37</p> <p>1 Q. Okay.<br/>2 A. This very last time I worked.<br/>3 Q. Were you employed at the plant on more than<br/>4 one occasion?<br/>5 A. Yes.<br/>6 Q. How many different times were you employed<br/>7 at the plant?<br/>8 A. If I'm not mistaken, I think five. But I,<br/>9 like, worked at the cook plant, the other<br/>10 building, the cook plant. And I only worked at<br/>11 debone, I think, twice.<br/>12 Like, the first time I worked at debone, I<br/>13 didn't work, like, on the line; I was, like --<br/>14 they was, like, doing leg quarters. I was, like,<br/>15 putting labels on the big bags, you know. So I<br/>16 didn't work on the line that specific time I<br/>17 worked there. I guess maybe because I was<br/>18 pregnant, you know, whatever.<br/>19 Q. So there was a time -- just so I can<br/>20 understand your employment history, the most<br/>21 recent time that you worked at the plant, were you<br/>22 on a debone line?<br/>23 A. Yes.</p>  |

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| <p style="text-align: right;">38</p> <p>1 Q. And then there was another time that you<br/>2 were employed at the plant that you did not work<br/>3 on the debone line; is that correct?<br/>4 A. Yes.<br/>5 Q. All right. And do you have an idea of<br/>6 during what times your other employment at the<br/>7 plant was?<br/>8 A. Let me see. I think 2000, 2001, maybe '2,<br/>9 '3, something like that. But like I said, I<br/>10 worked there more than one time. But I worked<br/>11 from, like, from the back, you know. I worked in<br/>12 shipping; I worked in packing -- packout; I worked<br/>13 in, what do you call it, lay down; I worked in<br/>14 marination, box room. I pretty much did it all.<br/>15 Q. Some of those positions are positions that<br/>16 were in the cook plant; is that correct?<br/>17 A. Yes. But once they saw how good, you know,<br/>18 that I was, like, a fast worker, they would, like,<br/>19 have me, like, load the line. Because, you know,<br/>20 they had, like, slabs of ribs or whatever. You<br/>21 know, they were like slabs of ribs, baby back ribs<br/>22 or whatever.<br/>23 I'd load the line with this great big old</p> | <p style="text-align: right;">40</p> <p>1 right outside the office. There was this big<br/>2 table. And somebody would, like, bring a box of<br/>3 the bags that's over there; and I would just put<br/>4 labels on them, you know. I guess because the<br/>5 condition I was in, because I was way out there<br/>6 when I started.<br/>7 Q. I understand. During the time that you were<br/>8 working on night shift in debone, what was your<br/>9 normal scheduled shift? Did you have a scheduled<br/>10 start time?<br/>11 A. Yes.<br/>12 Q. What time would your shift normally start?<br/>13 A. Hold on just a second. I'm trying to think.<br/>14 They changed it up so much. I think 4:30. I<br/>15 think the shift started at, like, 4:30. You have<br/>16 to be suited up and ready to work on the line at<br/>17 4:30.<br/>18 Q. And that's 4:30 in the afternoon?<br/>19 A. Yes. Like I said, if I was on nights.<br/>20 Q. Right. I'm just asking you about that right<br/>21 now.<br/>22 A. Okay. 4:30.<br/>23 Q. And was there a normal time that your shift</p>                                |
| <p style="text-align: right;">39</p> <p>1 combo. The pallet jacks would bring this big old<br/>2 combo; and I would have to bend over with this pan<br/>3 and dip, you know, and pour it over; and it would,<br/>4 like, slide up under the belt.<br/>5 Q. Yes. And that was at one of the other times<br/>6 that you were employed?<br/>7 A. Yes. But I was at the cook plant.<br/>8 Q. But just during the time that you worked at<br/>9 the flesh plant, where they do the evisceration<br/>10 and the deboning, you believe that you were<br/>11 employed there two different times?<br/>12 A. Talking about debone?<br/>13 Q. Yes.<br/>14 A. Yes.<br/>15 Q. And one time you worked packing leg quarters<br/>16 into bags; is that correct?<br/>17 A. Huh-uh. I would put the labels on there.<br/>18 Q. So there's a machine that would load them<br/>19 into the bags, and then you would label them?<br/>20 A. I was, like, standing up there by the -- it<br/>21 would be, like, close to the, like -- I guess they<br/>22 would, like, use this little room for, like, where<br/>23 the supervisors hang out; and I would be, like,</p>  | <p style="text-align: right;">41</p> <p>1 would end?<br/>2 A. No. Wouldn't be no specific time.<br/>3 Q. Now, did you also work in debone on day<br/>4 shift?<br/>5 A. Yes.<br/>6 Q. And do you recall what time your shift would<br/>7 normally start then?<br/>8 A. On day shift, 7:00. It was 7:00 or 7:30.<br/>9 Q. And was there a normal scheduled time when<br/>10 the shift would end, on day shift?<br/>11 A. It was supposed to end at, I think, 3:30 or<br/>12 4:00, but sometimes we would still be working<br/>13 over. And second shift couldn't come in yet,<br/>14 because they would, like, still have us working or<br/>15 whatever.<br/>16 They would be already suited up, you know,<br/>17 standing around ready to work, but day shift's<br/>18 still going. Because they want for us to get that<br/>19 order out. As long as that combo was up there<br/>20 with meat in it, you're fixin' to work; you're not<br/>21 fixin' to leave. Even though second shift should<br/>22 be able to take it over, most of the time they<br/>23 would make us stay there and finish that combo.</p> |

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| <p style="text-align: right;">42</p> <p>1 THE COURT REPORTER: Are you saying</p> <p>2 "combo"?</p> <p>3 THE WITNESS: You know, the guys, they</p> <p>4 come out with this pallet jack. It looks like the</p> <p>5 size of the Jacuzzi. It's full of meat, birds or</p> <p>6 whatever.</p> <p>7 Q. A big tub?</p> <p>8 A. Well, if you want to call it a tub. But</p> <p>9 they call it a combo, so that's what I'm used to</p> <p>10 saying.</p> <p>11 Q. It's like a big plastic container; is that</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Now, during your time on the debone line,</p> <p>15 would you get any breaks?</p> <p>16 A. Yes.</p> <p>17 Q. How many breaks a day did you get?</p> <p>18 A. Well, you get -- you're supposed to get a</p> <p>19 30-minute break, but...</p> <p>20 Q. I'm just asking how many breaks would you</p> <p>21 get during the course of the day?</p> <p>22 A. Two breaks. Two.</p> <p>23 Q. And how long were those breaks?</p>  | <p style="text-align: right;">44</p> <p>1 that's how you knew it was okay for you to leave</p> <p>2 for break?</p> <p>3 A. Yes. You could get, like, through with your</p> <p>4 little work or whatever, then put your chain guard</p> <p>5 back over in the bucket or hand it to the line</p> <p>6 leader if he was standing there or whatever, and</p> <p>7 then you could get undressed, wash up. First,</p> <p>8 you've got to wash up, and then get undressed.</p> <p>9 Then you could go to break. If you could get to</p> <p>10 the sink. But a lot of times you couldn't get to</p> <p>11 the sink. Break be already done started, you</p> <p>12 know.</p> <p>13 Q. Can you describe for me what it is you would</p> <p>14 do before going on break? You said that you would</p> <p>15 drop off your chain glove; is that correct?</p> <p>16 A. Yes. If you was working with a chain glove,</p> <p>17 you'd have to put it in the bucket. Like I said,</p> <p>18 the line leader might be standing right there</p> <p>19 beside you, or behind you, with the bucket.</p> <p>20 Once that last little piece of meat come to</p> <p>21 you and you do your part, then you can take the</p> <p>22 chain guard off and put it in the bucket or lay it</p> <p>23 on the table, whatever.</p> |
| <p style="text-align: right;">43</p> <p>1 A. Well, they're supposed to be 30 minutes.</p> <p>2 Q. And how would you know that it was time to</p> <p>3 go out on break?</p> <p>4 A. Well, you know, there's a clock up on the</p> <p>5 wall. Right there where the sink is, there's a</p> <p>6 big clock up there. Or if you had on a clock</p> <p>7 around your neck, or somebody work next to you or</p> <p>8 if somebody was walking by, you would ask what</p> <p>9 time it is.</p> <p>10 Q. So there were times that were normally</p> <p>11 scheduled for break?</p> <p>12 A. Yes.</p> <p>13 Q. And how would you know that it was okay to</p> <p>14 leave to go out on break? Would your line</p> <p>15 supervisor release you, say, "It's time go out on</p> <p>16 break"?</p> <p>17 A. Well, you would see the line breaking down.</p> <p>18 You know, the guy that's loading the line, when</p> <p>19 the cones come down, they would be empty; that</p> <p>20 means they're breaking the line, so it's time for</p> <p>21 a break.</p> <p>22 Q. So when the last chicken or piece of meat</p> <p>23 reached your station and you finished with it,</p> | <p style="text-align: right;">45</p> <p>1 Q. And then what would you do next?</p> <p>2 A. Walk over, like I said, if I could get to</p> <p>3 the sink, and rinse off; rinse my apron off, and</p> <p>4 take my stuff off and get undressed, and hang my</p> <p>5 stuff up, and walk to the -- like I say, you've</p> <p>6 got to walk through that water before you can get</p> <p>7 out. But a lot of times you can't get out. You</p> <p>8 know, it's so packed right there, you can't get</p> <p>9 out. Like I said, break done started.</p> <p>10 Q. What items are you allowed to wear outside</p> <p>11 of the production floor when you leave for break?</p> <p>12 Can you wear your boots?</p> <p>13 A. Yes.</p> <p>14 Q. Can you wear your hair net?</p> <p>15 A. It was one point we could wear them in,</p> <p>16 like, the break room. But you can't go out of the</p> <p>17 -- it was one point you couldn't wear them</p> <p>18 outside. There was one point you couldn't wear</p> <p>19 your hair nets or earplugs outside, because they</p> <p>20 was talking about, I guess, germs or whatever.</p> <p>21 Q. So if you decided to go outside of the</p> <p>22 plant, you would have to take --</p> <p>23 A. Yes. You know, to your car or whatever.</p>                        |

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| <p style="text-align: right;">46</p> <p>1 Some people go out to the smoking area or<br/>2 whatever.<br/>3 There was one point you could wear them out<br/>4 there. You know, didn't nobody say nothing. But<br/>5 then it came to a point, I guess, about germs or<br/>6 whatever, they stopped us from wearing the<br/>7 earplugs and the hair net outside.<br/>8 Q. Outside. But you could wear them into the<br/>9 break room; is that correct?<br/>10 A. You could wear them inside the break room at<br/>11 one point, like I said.<br/>12 Q. What about the smock? Is that something<br/>13 that you would have to take off before leaving the<br/>14 production area?<br/>15 A. Yes.<br/>16 Q. What about the blue sleeves and the blue<br/>17 apron?<br/>18 A. Yes, you would take that off and hang it up.<br/>19 You know, wash it off and hang it up.<br/>20 Q. What about any of the cotton or rubber<br/>21 gloves that you might be wearing?<br/>22 A. Well, you can't take them out with you.<br/>23 Q. So you would have to take those off before</p>  | <p style="text-align: right;">48</p> <p>1 second break as well?<br/>2 A. Do the same thing? Talking about --<br/>3 Q. Take off the clothing or equipment again,<br/>4 and --<br/>5 A. Everything applies the same, you know.<br/>6 Rinse off, you know; take the stuff off, hang it<br/>7 up properly.<br/>8 Q. So there's nothing different? I just want<br/>9 to clarify. There's nothing different you'd do<br/>10 before going out on your first break that you do<br/>11 before going out on your second break?<br/>12 A. It would be the same.<br/>13 Q. And when you would get out to the break room<br/>14 or to go outside, what would you normally do? Did<br/>15 you have lunch, a meal?<br/>16 A. Yes. If I had -- if I had time and I could<br/>17 get to the microwave -- you know, you have to get<br/>18 in line -- I would warm up. But if not, if I<br/>19 don't have time, I might can get a soda or get me<br/>20 a bag of chips or something.<br/>21 Q. And then how would you know that it was time<br/>22 to leave break and return to the production floor?<br/>23 A. Because they would start hollering. The</p>  |
| <p style="text-align: right;">47</p> <p>1 leaving the production floor?<br/>2 A. Yes.<br/>3 Q. And approximately how long do you think that<br/>4 it would take you to do that, to take off all<br/>5 those items of clothing you had to take off before<br/>6 leaving the production floor?<br/>7 A. Like I said, if I can get to the sink, it's<br/>8 going to take me about 10 or 15 minutes. Like I<br/>9 said, it's depending on where you're working at.<br/>10 You cannot leave that work area until that bird<br/>11 done came to you and you done did your part,<br/>12 whether it's cutting shoulders or pulling skin,<br/>13 take the fat off, or whatever.<br/>14 Q. I understand that. What I'm asking you<br/>15 about is, after you do that, and you're starting<br/>16 to take off the different items that you have to<br/>17 take off before leaving the production floor, how<br/>18 long does that take you?<br/>19 A. That's about 10 or 15 minutes.<br/>20 Q. And you said that you had two breaks; is<br/>21 that correct?<br/>22 A. Yes.<br/>23 Q. And would you do the same thing before your</p> | <p style="text-align: right;">49</p> <p>1 supervisor or the line leaders or whatever, they<br/>2 would start hollering, "Let's go. Let's go. Get<br/>3 to work. Get to work. Ándale!" I guess they'd<br/>4 be hollering "Ándale!" for the Mexicans or<br/>5 whatever, you know, to speed up or whatever. They<br/>6 would come in the break room, you know, where we<br/>7 at, and tell us, "Let's go." And you could be<br/>8 just now got in there.<br/>9 Everybody's supposed to go to break at the<br/>10 same time, but that don't always be the case. You<br/>11 know, everybody can't go to break at the same<br/>12 time. You're supposed to but, like I said,<br/>13 depends on what you're doing.<br/>14 Break be done started and you still be out<br/>15 on the line while everybody sitting there eating<br/>16 or whatever.<br/>17 Q. Can you describe for me what you would do<br/>18 when you would return from break?<br/>19 A. Well, like I say, walk in, rinse your boots<br/>20 off, or whatever, go back in, wash your hands, put<br/>21 your cotton liners on and put your plastic gloves<br/>22 on, put your smock on.<br/>23 But, like I said, before you come in there,</p> |



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| <p style="text-align: right;">50</p> <p>1 you have to have that hair net and them earplugs<br/>2 already on. And you suit up, and then you rinse<br/>3 your hands off again with the blue gloves, you<br/>4 know, and your apron; and then you put your chain<br/>5 glove back on and you get on the line, if you have<br/>6 time. But if that line done started, you're<br/>7 getting sent to the office or whatever. Or if you<br/>8 didn't do it fast enough, they're yelling at you<br/>9 telling you, "You need to speed up." You know,<br/>10 you can only work so fast, putting on stuff like<br/>11 that equipment, you know.<br/>12 Q. Now, in terms of when you were considered<br/>13 late, were you considered late if you were --<br/>14 MR. GOULD: Strike that.<br/>15 Q. Isn't it true that you would only be<br/>16 considered late if you were not at your position<br/>17 on the line when the piece of meat reached that<br/>18 position on the line; is that correct?<br/>19 MS. MCGOWAN: Object to the form.<br/>20 Q. Let's say, for example, you were pulling<br/>21 tenders. Did you have to be at your position on<br/>22 the line when the person who was loading the line<br/>23 was putting the first bird on, or did you have to</p> | <p style="text-align: right;">52</p> <p>1 second break?<br/>2 A. Yes.<br/>3 Q. Okay. And what about at the end of your<br/>4 shift? How do you know that it's time to leave<br/>5 for the end of your shift? Is it the same thing<br/>6 as with breaks, that once the last piece of<br/>7 chicken passes your position, you know that it's<br/>8 okay to leave?<br/>9 A. It depends on where you're at.<br/>10 Q. If you're working on the debone line?<br/>11 A. If you're on the debone line, it depends on<br/>12 where you're at. Say I'm right here and the cones<br/>13 is being emptied; as the cone be emptied, somebody<br/>14 be stepping off the line, because they done did<br/>15 what they're supposed to do to that meat. That<br/>16 meat come on down to you. But if you bagged up<br/>17 what meat already there, then you've got meat<br/>18 coming down, you've got to do all that meat.<br/>19 Sometimes the supervisor would come over or<br/>20 the line leader would come and help out, you know.<br/>21 Then again, the line leader might do it and just<br/>22 let you go on to break, you know. Because they<br/>23 know that you've done lost like 10 or 15 minutes</p> |
| <p style="text-align: right;">51</p> <p>1 be at your position on the line when the bird<br/>2 reached the tender-pulling position on the line?<br/>3 A. When the person's up there that's loading<br/>4 the line, everybody has to be in place. They want<br/>5 you to be in place, but a lot of times you can't<br/>6 be in place, because you're trying to get to the<br/>7 area where you can suit up, if somebody ain't<br/>8 stole your supplies.<br/>9 If somebody's done stole your supplies, you<br/>10 can't get on the line. You've got to go back to<br/>11 the supply room, buy more supplies. Or they send<br/>12 you to the office; they don't give you a chance or<br/>13 whatever.<br/>14 Q. And I think you indicated that the process<br/>15 of going out on break and coming back from break<br/>16 is the same for both the first break and the<br/>17 second break; is that correct?<br/>18 A. (No response.)<br/>19 Q. The things that you would do before you go<br/>20 out on break and the things that you would<br/>21 normally do when you're returning from break --<br/>22 A. You do it on the second break too.<br/>23 Q. -- they are the same for the first and</p>  | <p style="text-align: right;">53</p> <p>1 already, and you ain't going to have no break.<br/>2 Then sometimes you have to just stand there and<br/>3 finish doing what you've got to do. By the time<br/>4 you unsuit, rinse off and go out there, you've<br/>5 probably got five minutes, if you've even got that<br/>6 much.<br/>7 Q. Now, what is your understanding of what this<br/>8 lawsuit is about?<br/>9 A. (No response.)<br/>10 Q. Do you have an understanding of what it is<br/>11 that you, as a plaintiff in this lawsuit, are<br/>12 seeking to recover?<br/>13 A. I guess being paid for the time that I<br/>14 worked, like, overtime or whatever and wasn't<br/>15 paid; like break.<br/>16 Q. Can you describe for me what you mean when<br/>17 you say you were working overtime?<br/>18 A. Well, a lot of time you would work overtime<br/>19 and you didn't get paid.<br/>20 MS. MCGOWAN: I'm going to interject<br/>21 that, you know, she's not a lawyer, that this is a<br/>22 lay opinion. She can give you her best<br/>23 understanding. There may be other legal things</p>  |

## MERRILL LEGAL SOLUTIONS

Court Reporting \* Legal Video \* Litigation Support \* Trial Services

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| <p style="text-align: right;">54</p> <p>1 that she's entitled to that she doesn't</p> <p>2 understand.</p> <p>3 MR. GOULD: That's fine. I understand</p> <p>4 your objection.</p> <p>5 Q. You can go ahead and answer the question.</p> <p>6 A. I forgot the question.</p> <p>7 Q. I asked you what you were seeking in this</p> <p>8 lawsuit. And you said time that you were working</p> <p>9 overtime and not paid, and break?</p> <p>10 A. Yes.</p> <p>11 Q. And so I'm asking you what you mean by</p> <p>12 working overtime?</p> <p>13 A. Say what I mean?</p> <p>14 Q. Yeah. What specific things are you talking</p> <p>15 about when you're saying that you worked overtime?</p> <p>16 A. You know, like, worked like an hour or two</p> <p>17 overtime or whatever; and everybody else gone home</p> <p>18 and you're still there working, but you don't get</p> <p>19 paid for it. The shift is over, but you're still</p> <p>20 working.</p> <p>21 Q. And you would do that when you were on the</p> <p>22 debone line?</p> <p>23 A. Sometimes.</p>                           | <p style="text-align: right;">56</p> <p>1 I know I have talked to my supervisor or went to</p> <p>2 the head office and told them, you know, I wasn't</p> <p>3 paid, that my check is not right.</p> <p>4 Q. And what happened then?</p> <p>5 A. They would be like, "Well, why your check is</p> <p>6 not right?" They would, like, send you over to</p> <p>7 the payroll clerk or whoever. It would be like a</p> <p>8 big argument. They be like, "Well, you didn't</p> <p>9 work overtime." I be like, "Oh, yes, I worked</p> <p>10 overtime." But they don't pay you. They keep you</p> <p>11 there to do the work, but they don't pay you, give</p> <p>12 you your money.</p> <p>13 And to make sure that you don't -- like I</p> <p>14 said, they would work you overtime, but your</p> <p>15 supervisor or line leader, they'll be done came</p> <p>16 and got your card and swiped your card. You're</p> <p>17 off the clock but you're still on the floor</p> <p>18 working. They'll work you but don't want to pay</p> <p>19 you.</p> <p>20 Then a lot of times they don't come and get</p> <p>21 your card. You're still working, and they tell</p> <p>22 you, say, "Well, you're getting paid for</p> <p>23 overtime." You get your check, and your check</p> |
| <p style="text-align: right;">55</p> <p>1 Q. In what position?</p> <p>2 A. Whatever position they got you at. If they</p> <p>3 needed you and you couldn't leave or whatever, you</p> <p>4 couldn't leave. But like I said, the shift was</p> <p>5 over. But you don't get paid for it.</p> <p>6 Q. Now, how regularly would you get paid when</p> <p>7 you were working at Equity? Did you get paid</p> <p>8 weekly?</p> <p>9 A. Yes.</p> <p>10 Q. And when you would get your paycheck, did</p> <p>11 you look at your paycheck and check to see if you</p> <p>12 felt it was accurate?</p> <p>13 A. Yes.</p> <p>14 Q. And do you recall any instance when you</p> <p>15 looked at your paycheck and thought that you</p> <p>16 should have been paid for overtime; and you went</p> <p>17 to your supervisor or you went to some other</p> <p>18 management-level person and asked why you weren't</p> <p>19 paid overtime?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember any specific time that that</p> <p>22 occurred?</p> <p>23 A. No, I don't remember any specific time. But</p> | <p style="text-align: right;">57</p> <p>1 don't be right.</p> <p>2 Anybody that keep up with their hours, you</p> <p>3 know, you know that your check is not right.</p> <p>4 Q. Did you ever keep any sort of written record</p> <p>5 of times that you worked overtime that you thought</p> <p>6 you were not properly paid for that time?</p> <p>7 A. Record?</p> <p>8 Q. Did you write it down? Let's say that you</p> <p>9 thought that you worked two hours of overtime on</p> <p>10 Tuesday. Did you check on Friday --</p> <p>11 A. Yes, I used to write mines down sometimes.</p> <p>12 Q. Did you give those records to your</p> <p>13 supervisor or anybody?</p> <p>14 A. When I come in, I would, like, show my</p> <p>15 supervisor or go up to the head office and I would</p> <p>16 show them. I'd say, "My check is not right." But</p> <p>17 still I wouldn't get paid for it. They'd be like,</p> <p>18 "Well, you're right; you didn't get paid. Well</p> <p>19 we'll have it on your check Friday." And when you</p> <p>20 get your check, it still don't be on there.</p> <p>21 Q. Can you remember any specific instance where</p> <p>22 this happened?</p> <p>23 A. Quite a few occasions. I can't just be</p>                                       |

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| <p style="text-align: right;">58</p> <p>1 specific, you know.</p> <p>2 Q. Were there ever any instances when you</p> <p>3 claimed that you hadn't been paid for overtime,</p> <p>4 and you went and spoke to your supervisor or</p> <p>5 somebody in payroll, and you were issued a check</p> <p>6 for additional hours worked?</p> <p>7 A. I never got a check like that. When they</p> <p>8 see that I be done worked overtime they come and</p> <p>9 give my an extra check, I never.</p> <p>10 Only time I got a check, I think it was like</p> <p>11 one time I think, like, you referred somebody to</p> <p>12 that job. It's like a bonus check or something.</p> <p>13 I got that one time.</p> <p>14 Q. I understand. Do you know whether you ever</p> <p>15 had time added in to your next check, if there was</p> <p>16 time for overtime that you claimed you worked and</p> <p>17 then were paid for?</p> <p>18 A. Yeah, sometimes you would be paid. They</p> <p>19 would ask for, like, people would stay. And I</p> <p>20 guess they were going to be shorthanded on second</p> <p>21 shift or whatever, they would ask, like, could you</p> <p>22 come back at 7:00 or 5:30, or go take you a</p> <p>23 ten-minutes break and come back and work, you</p> | <p style="text-align: right;">60</p> <p>1 But like I say, you know, there's a certain</p> <p>2 time you can clock in. I would do that then.</p> <p>3 Q. Did you ever file any union grievances</p> <p>4 during the time you were employed by Equity Group?</p> <p>5 Did you ever go to your union rep and say, "I have</p> <p>6 a complaint and I would like to file something"?</p> <p>7 A. I have went to, like, a supervisor, or a</p> <p>8 supervisor that I see, you know. Sometimes you</p> <p>9 don't see your supervisor and you just see a</p> <p>10 supervisor. And I have complained on certain</p> <p>11 things, yeah.</p> <p>12 Q. Do you recall whether you actually filed a</p> <p>13 formal grievance through a union, through one of</p> <p>14 your union stewards?</p> <p>15 A. I heard what you said, but I don't</p> <p>16 understand what you mean.</p> <p>17 Q. Did you ever go to one of your union</p> <p>18 representatives and ask them to look into or</p> <p>19 pursue a particular complaint that you had?</p> <p>20 A. Talking about, like, walk up to a union rep</p> <p>21 or whatever?</p> <p>22 Q. Right.</p> <p>23 A. Yes.</p> |
| <p style="text-align: right;">59</p> <p>1 know. And you'll work overtime for four hours or</p> <p>2 whatever.</p> <p>3 Q. All right. And were you paid for that?</p> <p>4 A. Sometimes.</p> <p>5 Q. When you were working night shift, what time</p> <p>6 would you normally arrive at the plant?</p> <p>7 A. Talking about to be on the line or just</p> <p>8 arrive?</p> <p>9 Q. What time would you -- did you drive</p> <p>10 yourself?</p> <p>11 A. Yes.</p> <p>12 Q. What time would you --</p> <p>13 A. I would be there early. I would be there</p> <p>14 say, like -- I'd probably get there like 3:00 or</p> <p>15 3:30. That way I could go on and get my supplies</p> <p>16 or whatever I needed, you know, before that line</p> <p>17 get up there, you know.</p> <p>18 Q. All right. And if you got there early, what</p> <p>19 would you do after you got your supplies?</p> <p>20 A. I might just sit out. You know, they have,</p> <p>21 like, little tables outside. I'll sit out there</p> <p>22 or I'll sit in the break room, get me something to</p> <p>23 snack on or whatever, or I'll go back to my car.</p>  | <p style="text-align: right;">61</p> <p>1 Q. Who was that?</p> <p>2 A. Like I say, I know Jackie Smith; I know her</p> <p>3 name. But, like, the other people, I wouldn't</p> <p>4 know their name. But I would, like, ask, you</p> <p>5 know, "Who is a union rep?" And they would, like,</p> <p>6 point them out, her or him, you know. And you</p> <p>7 would walk up to them, and they would ask can they</p> <p>8 help you; what's the problem.</p> <p>9 Q. The last time that your employment ended</p> <p>10 with Equity Group, were you terminated or did you</p> <p>11 quit?</p> <p>12 A. Well, I say I was fired. I say I was fired.</p> <p>13 Pretty much fired, because they suspended me; and</p> <p>14 I don't think it was right.</p> <p>15 Q. Was it for attendance reasons?</p> <p>16 A. What's that?</p> <p>17 Q. Absenteeism?</p> <p>18 A. No.</p> <p>19 Q. What was it for?</p> <p>20 A. I guess job performance. You know, my hand.</p> <p>21 My hand.</p> <p>22 Q. That's all the questions I have. Thank you</p> <p>23 for your time.</p>  |



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| 1  | CERTIFICATE                                      |
| 2  |  |
| 3  | STATE OF ALABAMA                                 |
| 4  | BARBOUR COUNTY                                   |
| 5  |  |
| 6  | I hereby certify that the above and              |
| 7  | foregoing deposition was taken down by me in     |
| 8  | stenotype and the questions and answers thereto  |
| 9  | were transcribed by means of computer-aided      |
| 10 | transcription, and that the foregoing represents |
| 11 | a true and correct transcript of the testimony   |
| 12 | given by said witness upon said hearing.         |
| 13 | I further certify that I am neither of           |
| 14 | counsel, nor kin to the parties to the action,   |
| 15 | nor am I in anywise interested in the result of  |
| 16 | said cause.                                      |
| 17 |  |
| 18 |  |
| 19 | CYNTHIA M. NOAKES, Commissioner                  |
| 20 | Certified Court Reporter,                        |
| 21 | ACCR #327 - Expires 09/30/2008                   |
| 22 |  |
| 23 | Commission Expires 07/08/2009                    |

**TAB 10**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,

Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,

Defendant.

\* \* \* \* \*

DEPOSITION OF VIRGINIA AVERY, taken  
pursuant to notice and stipulation on  
behalf of the Defendant, at Williams,  
Pothoff, Williams & Smith, 125 South  
Orange Avenue, Eufaula, Alabama, before  
Bridgette Mitchell, Shorthand Reporter  
and Notary Public in and for the State  
of Alabama at Large, on May 21, 2008,  
commencing at 9:00 a.m.

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| <p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Carl E. Underwood, III, Esquire</p> <p>5 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>6 163 W. Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 M. John Steensland, III, Esquire</p> <p>10 PARKMAN, ADAMS &amp; WHITE</p> <p>11 739 West Main Street</p> <p>12 Dothan, Alabama 36301</p> <p>13</p> <p>14 FOR THE DEFENDANT:</p> <p>15 Gary D. Fry, Esquire</p> <p>16 PELINO &amp; LENTZ</p> <p>17 One Liberty Place</p> <p>18 Thirty-second Floor</p> <p>19 Philadelphia, Pennsylvania 19103</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 VIRGINIA AVERY is hereby waived and</p> <p>6 that said deposition may be introduced</p> <p>7 at the trial of this case or used in</p> <p>8 any other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21 By Mr. Underwood..... 53</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of VIRGINIA AVERY is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p style="text-align: right;">5</p> <p>1 COURT REPORTER: Usual</p> <p>2 stipulations?</p> <p>3 MR. UNDERWOOD: That's fine</p> <p>4 with me.</p> <p>5 MR. FRY: Sure.</p> <p>6 VIRGINIA AVERY, having first</p> <p>7 been duly sworn or affirmed to speak</p> <p>8 the truth, the whole truth, and nothing</p> <p>9 but the truth, testified as follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. FRY:</p> <p>12 Q. Mrs. Avery, we just met, but for the</p> <p>13 record my name is Gary Fry and I'm one</p> <p>14 of the attorneys for Equity Group,</p> <p>15 Eufaula Division, the plant over in</p> <p>16 Baker Hill. And we have asked you here</p> <p>17 today to put certain questions to you</p> <p>18 concerning a lawsuit in which you are a</p> <p>19 party. Have you -- against the</p> <p>20 company. Have you ever given a</p> <p>21 deposition before?</p> <p>22 A. No, sir.</p> <p>23 Q. Let me just explain what we're going to</p> |

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| <p style="text-align: right;">6</p> <p>1 do and give you a few guidelines. I'll</p> <p>2 be asking the questions and you'll be</p> <p>3 answering, and Bridgette, our court</p> <p>4 reporter, will be taking down my</p> <p>5 questions and your answers. If you</p> <p>6 don't understand one of my questions,</p> <p>7 please let me know and I'll try and</p> <p>8 rephrase it so you will understand it.</p> <p>9 If you don't hear something that I say,</p> <p>10 let me know and I'll repeat it. The</p> <p>11 only other guideline is I will wait</p> <p>12 until you finish your answer to start</p> <p>13 another question, and if you can wait</p> <p>14 while -- until I finish my question so</p> <p>15 we don't talk over each other so she</p> <p>16 can get a clean record. Okay?</p> <p>17 A. Yes, sir.</p> <p>18 Q. What's your home address?</p> <p>19 A. 14 Apartment Road, Georgetown, Georgia</p> <p>20 39854.</p> <p>21 Q. What is your date of birth?</p> <p>22 A. April 27, 1972.</p> <p>23 Q. Are you currently employed?</p> | <p style="text-align: right;">8</p> <p>1 Q. What shift did you work?</p> <p>2 A. I worked second shift.</p> <p>3 Q. What were the hours of second shift?</p> <p>4 A. From -- they rotated. One time they</p> <p>5 were from six till four, then it went</p> <p>6 to four to six. They rotated us.</p> <p>7 Q. So at one point it was 6 p.m. to</p> <p>8 4 a.m.?</p> <p>9 A. Four that evening.</p> <p>10 Q. What?</p> <p>11 A. Six that morning, four that evening.</p> <p>12 Q. Six a.m. till 4 p.m.?</p> <p>13 A. Yes.</p> <p>14 Q. And then it changed?</p> <p>15 A. Yes.</p> <p>16 Q. To what?</p> <p>17 A. It was from 6 p.m. to 4 p.m. that</p> <p>18 morning.</p> <p>19 Q. Four a.m.?</p> <p>20 A. Four a.m.</p> <p>21 Q. Did you work in any other departments</p> <p>22 while you were at Equity?</p> <p>23 A. No, sir.</p>   |
| <p style="text-align: right;">7</p> <p>1 A. No, sir.</p> <p>2 Q. Were you employed at one point at the</p> <p>3 Equity facility in Baker Hill?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And when were you so employed?</p> <p>6 A. That was in 2005 at the Equity Group.</p> <p>7 Q. Your employment started there in 2005</p> <p>8 and finished in 2005?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Do you recall when you started?</p> <p>11 A. I started in the middle of the year.</p> <p>12 Q. Around July, June?</p> <p>13 A. I can't remember.</p> <p>14 Q. Do you recall when your employment</p> <p>15 ended?</p> <p>16 A. I can't remember. I know it ended in</p> <p>17 2005.</p> <p>18 Q. For what reason did your employment end</p> <p>19 at Equity?</p> <p>20 A. I quit because I got too cold.</p> <p>21 Q. What job did you hold while you were</p> <p>22 employed at Equity?</p> <p>23 A. In debone.</p>  | <p style="text-align: right;">9</p> <p>1 Q. Did you work any other shifts?</p> <p>2 A. No -- yes, sir. I worked night shift.</p> <p>3 I've been down there twice. I worked</p> <p>4 night shift.</p> <p>5 Q. And what were the hours for the night</p> <p>6 shift?</p> <p>7 A. They're from -- they're from ten</p> <p>8 o'clock till -- I don't know what time</p> <p>9 that morning we got out, but it's from</p> <p>10 ten.</p> <p>11 Q. And you had this job in the debone</p> <p>12 department for the entire time you</p> <p>13 worked at Equity?</p> <p>14 A. Yes, because this department, it was in</p> <p>15 debone also.</p> <p>16 Q. Describe for me what you did.</p> <p>17 A. I cut chicken.</p> <p>18 Q. Who was your supervisor?</p> <p>19 A. I can't remember her name.</p> <p>20 Q. What was your rate of pay?</p> <p>21 A. Can you rephrase that?</p> <p>22 Q. How much did you make?</p> <p>23 A. I made -- I started off at 6.35 an</p> |

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| <p style="text-align: right;">10</p> <p>1 hour.</p> <p>2 Q. Pardon?</p> <p>3 A. Six thirty-five an hour, I started off</p> <p>4 with.</p> <p>5 Q. Did you then get an increase?</p> <p>6 A. In ninety days it went to 6.45.</p> <p>7 Q. How many hours per week did you work?</p> <p>8 A. We worked eight hours a day for a week.</p> <p>9 It totalled forty hours.</p> <p>10 Q. Forty hours per week?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Monday through Friday?</p> <p>13 A. Monday through Friday.</p> <p>14 Q. Now, I am correct that you are a</p> <p>15 plaintiff in this lawsuit?</p> <p>16 A. Yes, sir.</p> <p>17 Q. How did you first learn about the</p> <p>18 lawsuit?</p> <p>19 A. I heard it through some friends working</p> <p>20 at the place with me.</p> <p>21 Q. What did your friends tell you?</p> <p>22 A. That, you know, where we were working,</p> <p>23 they got a lawsuit against the chicken</p>                  | <p style="text-align: right;">12</p> <p>1 Q. What kind of lawsuits?</p> <p>2 A. Child support, car accident.</p> <p>3 Q. Pardon?</p> <p>4 A. Child --</p> <p>5 MR. UNDERWOOD: Go ahead and</p> <p>6 break it down for him and tell him more</p> <p>7 about child support and then --</p> <p>8 A. Child support, get the money from my</p> <p>9 children's father to pay me child</p> <p>10 support. And for my lawsuit, I was in</p> <p>11 a car accident.</p> <p>12 Q. During your employment at Equity, were</p> <p>13 you a member of the union?</p> <p>14 A. No, sir.</p> <p>15 Q. I take it from your answer that you</p> <p>16 never attended any union meetings?</p> <p>17 A. No, sir.</p> <p>18 Q. Did you review any documents to prepare</p> <p>19 for this deposition?</p> <p>20 A. No, sir.</p> <p>21 Q. Did you speak with anyone about this</p> <p>22 deposition except your attorneys?</p> <p>23 A. No, sir.</p> |
| <p style="text-align: right;">11</p> <p>1 plant where we didn't get paid.</p> <p>2 Q. What is your understanding about what</p> <p>3 the lawsuit is about?</p> <p>4 A. Where we were working, didn't get paid</p> <p>5 for.</p> <p>6 Q. What work did you perform for which you</p> <p>7 weren't paid?</p> <p>8 A. The time I get there and clock in till</p> <p>9 the time I leave.</p> <p>10 Q. What work did you perform from the time</p> <p>11 you clocked in until you clocked out</p> <p>12 that you weren't paid for?</p> <p>13 A. It'd take me thirty, forty minutes to</p> <p>14 put on my PPE.</p> <p>15 Q. Takes you thirty to forty minutes to</p> <p>16 put it on?</p> <p>17 A. During that day.</p> <p>18 Q. That's just to put it on?</p> <p>19 A. To put it on and take it off during the</p> <p>20 day, the whole day.</p> <p>21 Q. Have you ever been involved in any</p> <p>22 other lawsuits?</p> <p>23 A. Yes, sir.</p> | <p style="text-align: right;">13</p> <p>1 Q. Can you identify for me the outer</p> <p>2 garments, or PPE, as you described it,</p> <p>3 that you wore on a daily basis while</p> <p>4 you were working in the debone</p> <p>5 department at Equity?</p> <p>6 A. Yes, sir. As I can remember, we wore a</p> <p>7 smock, we wore a white liner, blue</p> <p>8 gloves, arm guard, chain gloves, and</p> <p>9 apron and boots.</p> <p>10 Q. Okay. A smock?</p> <p>11 A. Smock.</p> <p>12 Q. Blue gloves?</p> <p>13 A. Blue gloves. White liner.</p> <p>14 Q. White?</p> <p>15 A. Liner, white gloves, little white</p> <p>16 gloves.</p> <p>17 Q. White cotton gloves?</p> <p>18 A. Yes, sir.</p> <p>19 Q. An arm guard?</p> <p>20 A. Sleeve, arm guard.</p> <p>21 Q. And the plastic sleeves?</p> <p>22 A. Yes. And chain glove and your boots</p> <p>23 and hair net, earplugs.</p>   |

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| <p style="text-align: right;">14</p> <p>1 Q. So let me run down the list to make</p> <p>2 sure I have it accurately. You wore a</p> <p>3 smock, white cotton gloves, blue</p> <p>4 plastic gloves?</p> <p>5 A. Yes.</p> <p>6 Q. An arm guard and plastic sleeves?</p> <p>7 A. Yes.</p> <p>8 Q. Boots?</p> <p>9 A. Yes.</p> <p>10 Q. A hair net?</p> <p>11 A. Yes.</p> <p>12 Q. And earplugs?</p> <p>13 A. Yes. And the apron.</p> <p>14 Q. And an apron. Anything else?</p> <p>15 A. That's it as far as my line.</p> <p>16 Q. Which of these items were you required</p> <p>17 to wear?</p> <p>18 A. Everything.</p> <p>19 Q. So none of these items were optional?</p> <p>20 A. No.</p> <p>21 Q. From what you were able to observe,</p> <p>22 were all the employees in the -- did</p> <p>23 all the employees in the debone</p>   | <p style="text-align: right;">16</p> <p>1 Q. Anything else?</p> <p>2 A. That's it.</p> <p>3 Q. Was it your understanding you would be</p> <p>4 written up if you weren't wearing the</p> <p>5 white cotton gloves?</p> <p>6 A. Yes.</p> <p>7 Q. And how did you come by that</p> <p>8 understanding?</p> <p>9 A. I know if I didn't have them, then I</p> <p>10 have to be at work on time and have to</p> <p>11 go to the supply area to get some.</p> <p>12 Q. Who told you that each and every one of</p> <p>13 these items was required for your job?</p> <p>14 A. The -- the manager of the chicken</p> <p>15 plant. I don't know his name.</p> <p>16 Q. And when were you told that?</p> <p>17 A. The day I got hired.</p> <p>18 Q. Which of these items that you described</p> <p>19 for me of PPE were issued to you by</p> <p>20 Equity?</p> <p>21 A. Everything.</p> <p>22 Q. Everything?</p> <p>23 A. Everything.</p> |
| <p style="text-align: right;">15</p> <p>1 department at Equity wear these same</p> <p>2 items of clothing at Equity?</p> <p>3 A. No, sir.</p> <p>4 Q. What did you observe?</p> <p>5 A. It -- it depended on what work area</p> <p>6 they were working in. They didn't have</p> <p>7 to have on all of that.</p> <p>8 Q. From what you were able to observe,</p> <p>9 what employees were not -- what items</p> <p>10 were some employees not required to</p> <p>11 wear?</p> <p>12 A. I really don't know because I didn't</p> <p>13 work in all the departments.</p> <p>14 Q. Were you ever disciplined in any way</p> <p>15 for not wearing any of these items?</p> <p>16 A. Yes, you been writ up.</p> <p>17 Q. What were you written up for?</p> <p>18 A. For not having your PPE, part of your</p> <p>19 PPE.</p> <p>20 Q. Were you written up?</p> <p>21 A. Yes.</p> <p>22 Q. What were you written up for?</p> <p>23 A. Not having my hair net.</p> | <p style="text-align: right;">17</p> <p>1 Q. Even the boots?</p> <p>2 A. Even the boots.</p> <p>3 Q. Which of these items that you</p> <p>4 identified for me did you pick up on a</p> <p>5 daily basis?</p> <p>6 A. Every Monday of the week they give you</p> <p>7 a hair net, earplugs, blue gloves, and</p> <p>8 white liner.</p> <p>9 Q. You got those every Monday?</p> <p>10 A. Yes.</p> <p>11 Q. When did you get the smock?</p> <p>12 A. They give you three smocks when you</p> <p>13 first get hired, and that's it.</p> <p>14 Q. You got three smocks when you were</p> <p>15 hired?</p> <p>16 A. (Witness nods head.)</p> <p>17 Q. And was it your responsibility to take</p> <p>18 care of those -- that smock?</p> <p>19 A. Yes, sir. Got to take them home, wash</p> <p>20 them.</p> <p>21 Q. Where did you get the blue plastic</p> <p>22 sleeves?</p> <p>23 A. You'd get them from the supply area.</p>        |

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| <p style="text-align: right;">18</p> <p>1 Q. When did you get those?</p> <p>2 A. Every Monday.</p> <p>3 Q. What about the arm guard?</p> <p>4 A. The arm guard, you get that when you're</p> <p>5 hired. You have to keep up with it.</p> <p>6 Q. Pardon?</p> <p>7 A. You get that when you first get hired.</p> <p>8 You have to keep up with it.</p> <p>9 Q. Keep it with you?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Got the boots when you were hired?</p> <p>12 A. Yes.</p> <p>13 Q. What about the apron?</p> <p>14 A. You got that when you first got hired,</p> <p>15 too. They give you an apron once a</p> <p>16 month.</p> <p>17 Q. You were responsible for the apron?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Which of these items that you</p> <p>20 identified for me were you permitted to</p> <p>21 wear from home?</p> <p>22 A. When I was down there, you could wear</p> <p>23 your boots from home, your hair net,</p> | <p style="text-align: right;">20</p> <p>1 A. Yes, sir.</p> <p>2 Q. The plastic sleeves?</p> <p>3 A. Yes, sir.</p> <p>4 Q. You put the arm guards on in the break</p> <p>5 room?</p> <p>6 A. Yes.</p> <p>7 Q. And your apron?</p> <p>8 A. Yes, sir.</p> <p>9 Q. What about the chain glove?</p> <p>10 A. You put that on once you get on the</p> <p>11 line. Your supervisor always keep the</p> <p>12 chain glove.</p> <p>13 Q. So the chain glove was at your</p> <p>14 workstation on the line?</p> <p>15 A. Yes.</p> <p>16 Q. And you were not responsible for</p> <p>17 maintaining the chain glove?</p> <p>18 A. No, sir.</p> <p>19 Q. So I take it from your response to my</p> <p>20 last series of questions, that the time</p> <p>21 you put all these items on was when you</p> <p>22 were waiting for your shift to start in</p> <p>23 the break room?</p>                                     |
| <p style="text-align: right;">19</p> <p>1 and your earplugs.</p> <p>2 Q. When you were not at work at the plant,</p> <p>3 where would these items be?</p> <p>4 A. With me.</p> <p>5 Q. All of them?</p> <p>6 A. All of them.</p> <p>7 Q. Did you have a locker at the plant?</p> <p>8 A. Yes, you have a locker at the plant.</p> <p>9 Q. What did you use the locker for?</p> <p>10 A. Put your food in, your personal items,</p> <p>11 what you bring to work.</p> <p>12 Q. Did you put your boots, hair net and</p> <p>13 earplugs on at home?</p> <p>14 A. Yes.</p> <p>15 Q. With respect to these other items that</p> <p>16 you identified for me, can you tell me</p> <p>17 where you put them on before you went</p> <p>18 to work?</p> <p>19 A. Put them on in the break room.</p> <p>20 Q. So you put your smock on in the break</p> <p>21 room?</p> <p>22 A. Yes.</p> <p>23 Q. Gloves?</p>                               | <p style="text-align: right;">21</p> <p>1 A. Yes, sir.</p> <p>2 Q. Was it your understanding you're</p> <p>3 required to put these items on in the</p> <p>4 break room before you entered the</p> <p>5 production floor?</p> <p>6 A. Yes.</p> <p>7 Q. Did your job require you to use a knife</p> <p>8 or scissors?</p> <p>9 A. Yes.</p> <p>10 Q. And you would use these items to cut</p> <p>11 the chickens?</p> <p>12 A. Yes, sir.</p> <p>13 Q. How did you obtain -- which was it, a</p> <p>14 knife or a pair scissors?</p> <p>15 A. You rotate. You probably use both of</p> <p>16 them.</p> <p>17 Q. And how did you obtain these implements</p> <p>18 while you were at your workstation?</p> <p>19 A. Repeat that.</p> <p>20 Q. How did you get the knife and scissors?</p> <p>21 A. From the line leader or your</p> <p>22 supervisor.</p> <p>23 Q. Were those items given to you while you</p> |



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| <p style="text-align: right;">22</p> <p>1 were on the line?</p> <p>2 A. Yes, sir.</p> <p>3 Q. So it's my understanding you weren't</p> <p>4 responsible to sharpen them or maintain</p> <p>5 them?</p> <p>6 A. No.</p> <p>7 Q. Did you use any other tools or</p> <p>8 equipment?</p> <p>9 A. No, sir.</p> <p>10 Q. Now, I believe you indicated to me that</p> <p>11 you worked second shift and you started</p> <p>12 at 6 a.m. in the morning?</p> <p>13 A. Yes.</p> <p>14 Q. And you deboned?</p> <p>15 A. Yes.</p> <p>16 Q. In 2005?</p> <p>17 A. Yes.</p> <p>18 Q. What time were you required to be on</p> <p>19 the production line?</p> <p>20 A. Had to be on the line at seven o'clock.</p> <p>21 Q. At seven o'clock?</p> <p>22 A. Supposed to be on the line at seven</p> <p>23 o'clock.</p>  | <p style="text-align: right;">24</p> <p>1 A. It depended on how many birds you had</p> <p>2 to do.</p> <p>3 Q. When you were working the -- you say</p> <p>4 you worked the second shift in debone?</p> <p>5 A. Yes. But I wasn't on the line. I was</p> <p>6 on the tender belt.</p> <p>7 Q. Pardon?</p> <p>8 A. I was on the tender belt. I wasn't on</p> <p>9 the line.</p> <p>10 MR. UNDERWOOD: The tender</p> <p>11 belt? Is that what you're saying?</p> <p>12 THE WITNESS: Uh-huh.</p> <p>13 Q. The tender belt. What did you do on</p> <p>14 the tender belt?</p> <p>15 A. We made tender, separate the tender.</p> <p>16 Q. Did you work on the tender belt your</p> <p>17 whole time there?</p> <p>18 A. Yes.</p> <p>19 Q. So your work on the tender belt line</p> <p>20 started at 7 a.m.?</p> <p>21 A. On first shift, 7 a.m.</p> <p>22 Q. So you worked first shift debone?</p> <p>23 A. Yes.</p>  |
| <p style="text-align: right;">23</p> <p>1 Q. You told me your shift started at six.</p> <p>2 A. Yes. It started -- shift -- because we</p> <p>3 have to get there to get in the line</p> <p>4 and get our smocks and our apron and</p> <p>5 gloves and stuff if we don't have it.</p> <p>6 We have to be on the line at seven</p> <p>7 o'clock because we have to wash down</p> <p>8 our apron and stuff.</p> <p>9 Q. What time were you required to report</p> <p>10 to the plant?</p> <p>11 A. I can't remember what time we had to be</p> <p>12 there.</p> <p>13 Q. Well, if your line started at 7 a.m.,</p> <p>14 did they give you a definite time that</p> <p>15 you had to be there before then?</p> <p>16 A. Yes. We had to be there before the</p> <p>17 line get started.</p> <p>18 Q. How much time before the line started?</p> <p>19 A. We had to be there at seven o'clock.</p> <p>20 Q. You just had to be on the line at seven</p> <p>21 o'clock. Is that what you're saying?</p> <p>22 A. Yes.</p> <p>23 Q. What time did your shift end?</p> | <p style="text-align: right;">25</p> <p>1 Q. And when you worked first shift debone</p> <p>2 and your shift started at 7 a.m., what</p> <p>3 time did the shift end?</p> <p>4 A. It depended on how many birds -- how</p> <p>5 many cuts of bird we have to do.</p> <p>6 Sometimes it be 4:30 when we get off.</p> <p>7 Q. If you only worked eight hours that</p> <p>8 day, what time would the shift end?</p> <p>9 A. I can't -- can't say I did time.</p> <p>10 Q. Pardon?</p> <p>11 A. I can't say I did time.</p> <p>12 Q. How many breaks did you get during your</p> <p>13 shift?</p> <p>14 A. We get two breaks.</p> <p>15 Q. How long was each break?</p> <p>16 A. Thirty minutes.</p> <p>17 Q. Where did you take your break?</p> <p>18 A. In the work area or either outside.</p> <p>19 Q. Pardon?</p> <p>20 A. The break area or outside. They got a</p> <p>21 break room inside and a break area</p> <p>22 outside.</p> <p>23 Q. What was the time of the first break</p> |

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| <p style="text-align: right;">26</p> <p>1 you took when you started at 7 a.m.?</p> <p>2 A. I can't remember what time that we go</p> <p>3 to break.</p> <p>4 Q. Do you recall the time of the second</p> <p>5 break?</p> <p>6 A. I can't remember because it's been</p> <p>7 three -- two years or three years I've</p> <p>8 been down there, so I can't remember.</p> <p>9 Q. And was it your understanding that your</p> <p>10 breaks were unpaid?</p> <p>11 A. Yes, sir.</p> <p>12 Q. When it was time to go on break, what</p> <p>13 signaled you that it was time?</p> <p>14 A. They'll let you know it's time to go on</p> <p>15 break.</p> <p>16 Q. How did they let you know?</p> <p>17 A. They'll holler break time.</p> <p>18 Q. Who would holler?</p> <p>19 A. The supervisor.</p> <p>20 Q. And what would you do when they</p> <p>21 hollered break?</p> <p>22 A. You have to wait till the bird pass</p> <p>23 your station before you go to break.</p> | <p style="text-align: right;">28</p> <p>1 A. Same time.</p> <p>2 Q. And it didn't matter where the birds</p> <p>3 were?</p> <p>4 A. Didn't matter where the birds were.</p> <p>5 Everybody had to be there at the same</p> <p>6 time.</p> <p>7 Q. Did you get a lunch break besides the</p> <p>8 two breaks you just described for us?</p> <p>9 A. No.</p> <p>10 Q. You worked for Equity for what,</p> <p>11 approximately four, five, or six</p> <p>12 months? Is that accurate?</p> <p>13 A. The total time, both times I was down</p> <p>14 there, around about six months.</p> <p>15 Q. In 2005?</p> <p>16 A. Yes.</p> <p>17 Q. And how much of that time did you work</p> <p>18 on the tender belt, the whole time?</p> <p>19 A. I worked three -- three months on the</p> <p>20 tender belt.</p> <p>21 Q. And when you weren't working on the</p> <p>22 tender belt, where were you working?</p> <p>23 A. I was in debone on the line.</p>                    |
| <p style="text-align: right;">27</p> <p>1 Q. You had to wait till the bird passed?</p> <p>2 A. If you at the end of the line, you be</p> <p>3 the last person to go to break.</p> <p>4 Q. So some people got to go on break</p> <p>5 quicker than others?</p> <p>6 A. Yes.</p> <p>7 Q. Because the bird passed their station</p> <p>8 first?</p> <p>9 A. Yes.</p> <p>10 Q. What signaled to you the end of your</p> <p>11 break time?</p> <p>12 A. We had to keep up with our own time.</p> <p>13 Everybody got to leave at the same</p> <p>14 time.</p> <p>15 Q. You had to keep your own -- track of</p> <p>16 your own break time?</p> <p>17 A. Yes.</p> <p>18 Q. And what was your understanding as to</p> <p>19 when you had to be back on the line?</p> <p>20 A. When everybody else go back to the</p> <p>21 line. Everybody got to be on the line</p> <p>22 at the same time.</p> <p>23 Q. At the same time?</p>   | <p style="text-align: right;">29</p> <p>1 Q. When you worked on the tender belt, was</p> <p>2 your starting time always 6 a.m.?</p> <p>3 A. No. I was on the night shift on the</p> <p>4 tender belt.</p> <p>5 Q. Pardon?</p> <p>6 A. I was on the night shift on tender</p> <p>7 belt.</p> <p>8 Q. And what time did you start, 7 p.m.?</p> <p>9 A. I was on third shift with tender belt.</p> <p>10 Q. When you first started, were you on</p> <p>11 tender belt or debone?</p> <p>12 A. I was on tender belt when I first</p> <p>13 started down there.</p> <p>14 Q. And what time did your shift start?</p> <p>15 A. 10:30.</p> <p>16 Q. In the evening?</p> <p>17 A. Ten at night.</p> <p>18 Q. What time did you usually arrive at the</p> <p>19 plant when you had a 10:30 start?</p> <p>20 A. I would get there around about ten</p> <p>21 o'clock.</p> <p>22 Q. Describe for me, in as much detail as</p> <p>23 you can, what you did from the time you</p> |

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| <p style="text-align: right;">30</p> <p>1 arrived in the parking lot until you</p> <p>2 started on the tender belt.</p> <p>3 A. When I get there in the morning time, I</p> <p>4 clock in. If it be on a Monday, I</p> <p>5 clock in, I go to the supply area and</p> <p>6 get my everyday Monday stuff, I go back</p> <p>7 to the break room, I put on all my PPE.</p> <p>8 And about that time, it'd be time to go</p> <p>9 in, and you have to go in and wash up</p> <p>10 and get on the line.</p> <p>11 Q. When you said you clocked in, you</p> <p>12 swiped your -- your card in the Kronos</p> <p>13 clock?</p> <p>14 A. Yes.</p> <p>15 Q. If it wasn't Monday, is it correct that</p> <p>16 you had all these items with you?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And with the exception of the boots,</p> <p>19 the earplugs, and the hair net, you put</p> <p>20 the rest of the PPE on in the break</p> <p>21 room?</p> <p>22 A. Yes, sir.</p> <p>23 Q. How did you travel to and from the</p> | <p style="text-align: right;">32</p> <p>1 sanitize everything you have on.</p> <p>2 Q. And why did you -- what was your</p> <p>3 understanding as to why you had to do</p> <p>4 that?</p> <p>5 A. Keep bacteria away.</p> <p>6 Q. And what items did you wash?</p> <p>7 A. Your apron, your sleeve, and your blue</p> <p>8 glove.</p> <p>9 Q. Where did you do this washing?</p> <p>10 A. At the sink, the sanitize area.</p> <p>11 Q. Pardon?</p> <p>12 A. At the sink, sanitize area.</p> <p>13 Q. The sink in the -- on the production</p> <p>14 floor?</p> <p>15 A. In debone.</p> <p>16 Q. What signaled when it was time for you</p> <p>17 to walk onto the production floor?</p> <p>18 A. Repeat that, now.</p> <p>19 Q. How did you know when to go onto the</p> <p>20 production floor?</p> <p>21 A. Your supervisor and everybody get in</p> <p>22 place.</p> <p>23 Q. And from there you would proceed from</p>   |
| <p style="text-align: right;">31</p> <p>1 plant?</p> <p>2 A. My own vehicle.</p> <p>3 Q. And when you entered the plant, were</p> <p>4 you searched?</p> <p>5 A. No.</p> <p>6 Q. Were your personal possessions ever</p> <p>7 searched?</p> <p>8 A. No.</p> <p>9 Q. Do you have a sticker for your car?</p> <p>10 A. Yes.</p> <p>11 Q. And you came in the gate past the</p> <p>12 guard's shack?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And he just waved you through when he</p> <p>15 saw your sticker?</p> <p>16 A. Yes, sir.</p> <p>17 Q. In preparation for your work on the</p> <p>18 tender belt, before you got to your</p> <p>19 workstation, did you have to perform</p> <p>20 any washing?</p> <p>21 A. Yes, sir. You have to wash up.</p> <p>22 Q. What did you wash?</p> <p>23 A. You have to wash your apron -- wash --</p>  | <p style="text-align: right;">33</p> <p>1 the break room to the production floor?</p> <p>2 A. You go in there and they'll tell you</p> <p>3 what position you're getting in. They</p> <p>4 have to line you up where they want you</p> <p>5 to be.</p> <p>6 Q. How long did it take you to walk from</p> <p>7 the break room to the production floor?</p> <p>8 A. It takes about five minutes from debone</p> <p>9 break room to debone.</p> <p>10 Q. Where is the debone break room in</p> <p>11 relation to the production floor, the</p> <p>12 debone production floor?</p> <p>13 A. The areas are right across from each</p> <p>14 other.</p> <p>15 Q. But it took you five minutes to walk</p> <p>16 it?</p> <p>17 A. To walk in the door from the break</p> <p>18 room.</p> <p>19 Q. Why did it take you five minutes?</p> <p>20 A. Because they're right in front of each</p> <p>21 other.</p> <p>22 Q. Because of the number of people?</p> <p>23 A. They're right in front of each other.</p> |

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| <p style="text-align: right;">34</p> <p>1 The break area in front of each other.</p> <p>2 Q. It took you five minutes -- are you</p> <p>3 telling me that it took you five</p> <p>4 minutes because of the number of people</p> <p>5 that were entering the production</p> <p>6 floor?</p> <p>7 A. No.</p> <p>8 Q. Okay. Why did it take you five</p> <p>9 minutes?</p> <p>10 A. To get in the door, it takes you five</p> <p>11 minutes from the debone area to the</p> <p>12 break room.</p> <p>13 Q. It's that far away?</p> <p>14 A. Yes. Because you have to stand right</p> <p>15 there to sanitize your boots.</p> <p>16 Q. Tie your boots?</p> <p>17 A. Sanitize your boots as you walk in the</p> <p>18 door.</p> <p>19 Q. How did you do that?</p> <p>20 A. They got a puddle of water you have to</p> <p>21 step in that sanitizes it.</p> <p>22 Q. Don't you just walk through it?</p> <p>23 A. You got to stand there.</p>        | <p style="text-align: right;">36</p> <p>1 required to wear the plastic arm</p> <p>2 guards?</p> <p>3 A. No, sir.</p> <p>4 Q. When you went -- I think you told me</p> <p>5 that you worked on the tender belt for</p> <p>6 approximately three months?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And then you went to the debone line?</p> <p>9 A. After that I quit, and about a year I</p> <p>10 went back. Then I went in debone.</p> <p>11 Q. Well, let's backtrack a little bit. So</p> <p>12 you worked at the plant on two</p> <p>13 occasions?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And were they both in 2005?</p> <p>16 A. Yes, sir.</p> <p>17 Q. So when did you first start your first</p> <p>18 job at Equity?</p> <p>19 A. I can't -- I can't remember.</p> <p>20 Q. So you quit after three months on the</p> <p>21 tender line?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And how long were you not working at</p> |
| <p style="text-align: right;">35</p> <p>1 Q. You've got to stand there. Once you</p> <p>2 entered the production floor, you went</p> <p>3 right to your position on the line?</p> <p>4 A. You go to your supervisor and she'll</p> <p>5 tell you what position you got to get</p> <p>6 to.</p> <p>7 Q. And then you went to that position and</p> <p>8 started working?</p> <p>9 A. Yes.</p> <p>10 Q. Did this process that you just</p> <p>11 described for me change at all when you</p> <p>12 moved from the tender belt to the</p> <p>13 debone line?</p> <p>14 A. Yes, sir.</p> <p>15 Q. How did it change?</p> <p>16 A. Because you don't have to use knives on</p> <p>17 the tender belt, depending what -- you</p> <p>18 could be loading it or be back there</p> <p>19 separating the tender.</p> <p>20 Q. You didn't use knives on the tender</p> <p>21 belt?</p> <p>22 A. No, sir.</p> <p>23 Q. Did you still -- were you still</p> | <p style="text-align: right;">37</p> <p>1 Equity?</p> <p>2 A. A year.</p> <p>3 Q. A year. So did you start back in 2006?</p> <p>4 A. I started -- I didn't work down there</p> <p>5 in 2006. My last time down there was</p> <p>6 in 2005.</p> <p>7 Q. You still recall that you were out</p> <p>8 of -- you weren't working at Equity for</p> <p>9 a year between the two jobs?</p> <p>10 A. The two jobs -- I wasn't working down</p> <p>11 there a year.</p> <p>12 Q. Pardon me?</p> <p>13 A. The two jobs I was down there, end of</p> <p>14 2004 to 2005.</p> <p>15 Q. Once you went back to work for</p> <p>16 Equity --</p> <p>17 A. I went in 2005. The last time I went</p> <p>18 down there, in 2005.</p> <p>19 Q. So in 2005, you worked on the debone</p> <p>20 line?</p> <p>21 A. 2005, I worked in debone.</p> <p>22 Q. And it was 2004 that you worked on --</p> <p>23 A. On the tender belt.</p>    |

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| <p style="text-align: right;">38</p> <p>1 Q. -- the tender belt. When you went to</p> <p>2 work in the debone line in 2005, did</p> <p>3 you follow the same routine that you</p> <p>4 described for me that you followed when</p> <p>5 you were working the tender belt?</p> <p>6 A. Yes.</p> <p>7 Q. And were you given three smocks when</p> <p>8 you started working?</p> <p>9 A. Yes.</p> <p>10 Q. And was it your responsibility to keep</p> <p>11 those smocks clean?</p> <p>12 A. Your responsibility.</p> <p>13 Q. And did you don, put on, all those</p> <p>14 items of PPE in the break room when you</p> <p>15 worked on the debone line?</p> <p>16 A. Yes.</p> <p>17 Q. So you were permitted to wear your</p> <p>18 smock and your apron before you got</p> <p>19 onto the production floor?</p> <p>20 A. Yes. Went out of the break room into</p> <p>21 your work area. You have to put</p> <p>22 everything on in the break room.</p> <p>23 Q. How long did it take you to put these</p>                         | <p style="text-align: right;">40</p> <p>1 belt, you weren't wearing arm guards,</p> <p>2 you told me?</p> <p>3 A. Uh-uh.</p> <p>4 Q. So you didn't have to wash them.</p> <p>5 A. Uh-uh, because you didn't have to use</p> <p>6 the arm guard in tender belt.</p> <p>7 Q. So you washed the other items?</p> <p>8 A. Yes.</p> <p>9 Q. What items did you take off before you</p> <p>10 left the production floor?</p> <p>11 A. You have to take everything off except</p> <p>12 your boot.</p> <p>13 Q. So you took off the sleeves?</p> <p>14 A. Yes.</p> <p>15 Q. You took off the apron?</p> <p>16 A. Yes.</p> <p>17 Q. And you took off your smock?</p> <p>18 A. Yes.</p> <p>19 Q. And what did you do with these items?</p> <p>20 A. I washed them. You have to hang them</p> <p>21 up. They've got a rack in there to</p> <p>22 hang it on.</p> <p>23 Q. So you don't wash your smock?</p> |
| <p style="text-align: right;">39</p> <p>1 items on in the break room?</p> <p>2 A. To get fully dressed, it'd take me</p> <p>3 about fifteen minutes.</p> <p>4 Q. Tell me, in as much detail as you can,</p> <p>5 what you did when you went on break.</p> <p>6 A. I stay in line and warm my food up if I</p> <p>7 eat that day.</p> <p>8 Q. Take me from your workstation on the</p> <p>9 tender belt to the break room. What</p> <p>10 did you do?</p> <p>11 A. When the bird, it pass, you go on</p> <p>12 break. You've got to leave off that</p> <p>13 line, go to the wash station and wash</p> <p>14 your apron stuff up, then you take it</p> <p>15 off; you hang it up. Then you go in</p> <p>16 the break room or outside, wherever you</p> <p>17 want to go.</p> <p>18 Q. So you just washed your apron when you</p> <p>19 were leaving?</p> <p>20 A. Wash everything you have on, your</p> <p>21 apron, your blue glove, your sleeve,</p> <p>22 your arm guard.</p> <p>23 Q. Well, when you worked in the tender</p> | <p style="text-align: right;">41</p> <p>1 A. Uh-uh.</p> <p>2 Q. So you hung those items up and then</p> <p>3 you -- you left?</p> <p>4 A. Yes.</p> <p>5 Q. So during your break you kept, of</p> <p>6 course, your boots on?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Your hair net?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Your earplugs?</p> <p>11 A. Yes, sir.</p> <p>12 Q. What about your gloves?</p> <p>13 A. You take your gloves off.</p> <p>14 Q. And do you carry them with you?</p> <p>15 A. No, sir.</p> <p>16 Q. Where do you put them?</p> <p>17 A. Tied up in your apron.</p> <p>18 Q. How many wash stations were available</p> <p>19 to you in the production floor?</p> <p>20 A. There were three sinks.</p> <p>21 Q. Pardon me?</p> <p>22 A. Three sinks.</p> <p>23 Q. Three sinks?</p>   |



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| <p style="text-align: right;">42</p> <p>1 A. (Witness nods head.)</p> <p>2 Q. And how many people could use --</p> <p>3 A. Three at a time.</p> <p>4 Q. -- a sink? Three at a time?</p> <p>5 A. Three at a time.</p> <p>6 Q. How many people worked -- were these</p> <p>7 sinks just for the people that worked</p> <p>8 on the tender line?</p> <p>9 A. They're for everybody, the whole</p> <p>10 debone, pack-out, tender belt.</p> <p>11 Q. How many people worked in the debone</p> <p>12 department?</p> <p>13 A. Oh, I can't -- I don't know.</p> <p>14 Q. What was the length of time between</p> <p>15 when you were told to -- that it was</p> <p>16 break time and you could leave your</p> <p>17 workstation until you got into the</p> <p>18 break room?</p> <p>19 A. Now, repeat that.</p> <p>20 Q. How much time passed from the time you</p> <p>21 left your workstation till you got into</p> <p>22 the break room?</p> <p>23 A. I really don't know. It depended on</p>  | <p style="text-align: right;">44</p> <p>1 smock, the apron, and the sleeves,</p> <p>2 plastic sleeves?</p> <p>3 A. Yes.</p> <p>4 Q. Now, when you went back to work for the</p> <p>5 company in 2005 and you went on the</p> <p>6 debone line, were things pretty much</p> <p>7 the same as you've described them to</p> <p>8 me?</p> <p>9 A. It's the same.</p> <p>10 Q. The only difference being that now you</p> <p>11 wore the plastic arm guards?</p> <p>12 A. Yes.</p> <p>13 Q. And you had to wash those when you left</p> <p>14 the break room?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Describe for me now what you did at the</p> <p>17 end of your shift.</p> <p>18 A. At the end of the shift, after you</p> <p>19 get -- after the last bird pass by you,</p> <p>20 you wash up everything again and you</p> <p>21 take everything off in the break</p> <p>22 room -- in the debone area, and you go</p> <p>23 out there in debone and you clock out.</p>       |
| <p style="text-align: right;">43</p> <p>1 whereabouts you be at on the line.</p> <p>2 Q. It would depend on what?</p> <p>3 A. Whereabout you be on the line.</p> <p>4 Q. Did everybody perform -- that you saw,</p> <p>5 did everybody perform the same washing</p> <p>6 activities that you did as they left --</p> <p>7 A. Yes.</p> <p>8 Q. -- when they went on break?</p> <p>9 A. Yes.</p> <p>10 Q. Once your break was over, tell me what</p> <p>11 you did -- what you had to do from the</p> <p>12 time that you got up from the break</p> <p>13 room until you got to your position on</p> <p>14 the line.</p> <p>15 A. When the break is over, you go back in</p> <p>16 there -- everybody go back in there.</p> <p>17 You have to step back in the water,</p> <p>18 sanitize your boot, then go back to get</p> <p>19 your smock where you hung it up and you</p> <p>20 put it on. You get dressed and your</p> <p>21 supervisor tell you whereabouts you</p> <p>22 have to go on line.</p> <p>23 Q. So you went back in and put on the</p> | <p style="text-align: right;">45</p> <p>1 Q. So you took everything off in the -- on</p> <p>2 the production floor?</p> <p>3 A. Everything except your shoes and your</p> <p>4 hair net and your earplug. Everything</p> <p>5 else you would take off in there after</p> <p>6 you done wash it and sanitize it,</p> <p>7 because if you let chicken stuff stay</p> <p>8 on there, it will get dry.</p> <p>9 Q. So at the end of the day, you washed</p> <p>10 your apron?</p> <p>11 A. Yes.</p> <p>12 Q. You washed your plastic sleeves?</p> <p>13 A. Yes.</p> <p>14 Q. You washed your plastic sleeve guards</p> <p>15 when you were working on the debone</p> <p>16 line?</p> <p>17 A. Yes.</p> <p>18 Q. What did you do with the smock?</p> <p>19 A. Take it home to wash it.</p> <p>20 Q. Did you have to clock out?</p> <p>21 A. Yeah, you have to clock out.</p> <p>22 Q. How much time did it take you from when</p> <p>23 you were told you could leave your</p> |

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1 workstation till you left the plant?

2 A. I don't know.

3 Q. How much time did it take you, do you

4 recall, to take off the smock and --

5 A. It took about fifteen minutes.

6 Q. It takes fifteen minutes to take --

7 A. It takes about fifteen --

8 Q. -- that stuff off? Is that right?

9 You've got -- let's not -- let me get

10 my question out and I'll let you answer

11 it. Okay?

12 At the end of the day, when you're

13 in the production floor and you've left

14 your workstation, how much time did it

15 take you to take off your smock, your

16 apron, your plastic sleeve guards, and

17 the plastic sleeves?

18 A. It takes about fifteen minutes to take

19 everything off.

20 Q. Fifteen minutes. What is your

21 understanding, Ms. Avery, as to how the

22 company keeps track or kept track of

23 the amount of time that you worked?

47

1 A. Your timecard.

2 Q. Your timecard?

3 A. Uh-huh.

4 Q. And at the time you worked at Equity,

5 what was your understanding of the

6 time -- when did the time start for

7 which you were paid?

8 A. Now, repeat that.

9 Q. Yeah. That was not a good question.

10 Let me try again.

11 What is your understanding of when

12 the time started for which you were

13 supposed to be paid?

14 A. You get paid every week.

15 Q. No. Each day. When did the clock

16 start ticking as to when you should

17 have gotten paid?

18 A. The time you clock in.

19 Q. And was it your understanding, then,

20 that the time for which you were

21 stopped being paid was when you clocked

22 out?

23 A. Yes.

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1 Q. And who, if anyone, ever told you that?

2 A. They tell you when you first get hired,

3 when you clock in and get started, you

4 get paid when you hit the clock. And

5 you get -- aren't paid when you clock

6 out.

7 Q. And do you recall who told you that

8 when you first started?

9 A. No, I can't remember who told me when I

10 got hired. There be so many people in

11 and out of there.

12 Q. How often were you paid?

13 A. Paid every week.

14 Q. When you received your check, did you

15 review the payroll information on it?

16 A. No.

17 Q. Pardon?

18 A. No, sir.

19 Q. Did you have any reason to think that

20 the paychecks that you got were in

21 inaccurate?

22 A. No, sir.

23 Q. So you never complained to a supervisor

49

1 or anyone else that you thought your

2 check was short?

3 A. No, sir.

4 Q. Did you keep track of the hours you

5 worked each day yourself?

6 A. Yes, sir.

7 Q. How did you do that?

8 A. I know what time I clock in and I know

9 what time I clock out.

10 Q. Did you make a note of that?

11 A. No, sir.

12 Q. It was just what appeared on your

13 time -- on the clock when you clocked

14 in?

15 A. No. I can remember what time I clocked

16 in and when I clocked out.

17 Q. What time did you usually clock in when

18 you worked debone?

19 A. I can't say because it be -- sometime

20 it be more people in front of you when

21 you get there to clock in. But they

22 only have one time clock in the break

23 room.

|  |  |
|--|--|
| <p style="text-align: right;">50</p> <p>1 Q. What shift did you work on debone?</p> <p>2 A. I worked the first shift on debone.</p> <p>3 Q. And what were the hours of first shift?</p> <p>4 A. From 7:30 to 4:30.</p> <p>5 Q. Was that 7:30 in the morning until</p> <p>6 4:30?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And when you started that 7:30 shift,</p> <p>9 what time would you usually show up at</p> <p>10 the plant?</p> <p>11 A. Around seven o'clock.</p> <p>12 Q. I take it from your last answer that</p> <p>13 you've never kept any sort of diary or</p> <p>14 notes as to -- or any other document</p> <p>15 showing what you believe to be the</p> <p>16 hours that you worked at the company?</p> <p>17 A. No, sir.</p> <p>18 Q. Do you know of anyone who did?</p> <p>19 A. No, sir.</p> <p>20 Q. Have you made any calculations as to</p> <p>21 the time that you believe that you</p> <p>22 worked that you weren't paid for?</p> <p>23 A. No, sir.</p> | <p style="text-align: right;">52</p> <p>1 ever filed any other complaints with</p> <p>2 respect to the -- your allegations that</p> <p>3 you weren't paid properly at Equity</p> <p>4 with any other --</p> <p>5 A. No, sir.</p> <p>6 Q. -- government agency?</p> <p>7 A. No, sir.</p> <p>8 Q. I think you told me that you were</p> <p>9 written up once because you weren't</p> <p>10 wearing an item of clothing; is that</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. Is that the only time you were ever</p> <p>14 subject to any discipline?</p> <p>15 A. When I don't come to work, I skip a</p> <p>16 day, I get writ up; or I leave early, I</p> <p>17 get writ up; or come on the line late,</p> <p>18 I get writ up.</p> <p>19 Q. How many times did you leave -- were</p> <p>20 you late that you got written up for?</p> <p>21 A. I can't remember.</p> <p>22 Q. More than once?</p> <p>23 A. I don't know.</p> |
| <p style="text-align: right;">51</p> <p>1 Q. During both times that you worked at</p> <p>2 Equity, were you ever asked or required</p> <p>3 to stay and work overtime?</p> <p>4 A. No, sir.</p> <p>5 Q. So you told me that you were not a</p> <p>6 union member, so I take it you never</p> <p>7 filed any grievance with the union with</p> <p>8 respect to --</p> <p>9 A. No.</p> <p>10 Q. -- any pay issues?</p> <p>11 A. No, sir.</p> <p>12 Q. Did you otherwise complain to anybody</p> <p>13 about your pay?</p> <p>14 A. No, sir.</p> <p>15 Q. And with the exception of this lawsuit,</p> <p>16 I gather that you've never filed any</p> <p>17 claim with the department of labor or</p> <p>18 any other governmental agency with</p> <p>19 respect to your pay?</p> <p>20 A. Can you repeat that? I don't</p> <p>21 understand that.</p> <p>22 Q. Okay. With respect to your</p> <p>23 participation in this lawsuit, have you</p>                                 | <p style="text-align: right;">53</p> <p>1 Q. More than five times?</p> <p>2 A. I don't know.</p> <p>3 Q. Were you -- you said you were written</p> <p>4 up for leaving early?</p> <p>5 A. Yes.</p> <p>6 Q. How many times were you written up for</p> <p>7 it?</p> <p>8 A. I don't know.</p> <p>9 Q. We're just about finished.</p> <p>10 (Brief pause)</p> <p>11 Q. Thank you.</p> <p>12 MR. FRY: That's all I have.</p> <p>13 MR. UNDERWOOD: Let's take a</p> <p>14 quick break.</p> <p>15 (Short recess)</p> <p>16 EXAMINATION</p> <p>17 BY MR. UNDERWOOD:</p> <p>18 Q. During questions by defense counsel,</p> <p>19 there were some times you mentioned</p> <p>20 some of the items you were taking off.</p> <p>21 You didn't mention gloves. You had to</p> <p>22 take those off at every break and put</p> <p>23 them back on when you went back on the</p>  |



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1 line; is that correct?

2 A. Yes.

3 Q. What about liners, did you do that with  
4 liners as well?

5 A. Yes.

6 Q. Okay. And the boots and the earplugs  
7 and the hair net that you said  
8 sometimes you wore from the house,  
9 those were required for your job;  
10 right?

11 A. Yeah, they were required.

12 Q. You could not go on the line without  
13 those items --

14 A. No.

15 Q. -- on; is that correct?

16 A. Yes, that's correct.

17 Q. And if you did go on without those  
18 items on, you would be written up?

19 A. Yes.

20 MR. UNDERWOOD: That's all I  
21 have.  
22 (The deposition of Virginia Avery  
23 concluded at 9:55 a.m. on May 21, 2008)

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1 \* \* \* \* \*

2 REPORTER'S CERTIFICATE

3 \* \* \* \* \*

4 STATE OF ALABAMA

5 COUNTY OF MONTGOMERY

6 I do hereby certify that the above  
7 and foregoing transcript was taken down  
8 by me in stenotype, and the questions  
9 and answers thereto were transcribed by  
10 means of computer-aided transcription,  
11 and that the foregoing represents a  
12 true and correct transcript of the  
13 testimony given by said witness.

14 I further certify that I am neither  
15 of counsel, nor any relation to the  
16 parties to the action, nor am I anyway  
17 interested in the result of said case.  
18  
19  
20

21 Bridgette W. Mitchell,  
22 Certified Court Reporter and  
23 Commissioner for the State of  
Alabama at Large  
ACCR No. 231 - Expires 9/30/08  
MY COMMISSION EXPIRES 1/25/2010

**TAB 11**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF

PEARLINE BURKS

JOB NO. 1101-58505

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

|  |  |
|--|--|
| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 23rd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of PEARLINE BURKS may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 23rd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6</p> <p>5 Mr. Steensland 52</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 P. Burks Exhibit 1 45</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |

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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 9:47 a.m., PEARLINE BURKS, in<br/> 4 the above cause, for oral examination, whereupon<br/> 5 the following proceedings were had:<br/> 6<br/> 7 PEARLINE BURKS,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 EXAMINATION BY MR. FRY:<br/> 12 Q. Good morning, Ms. Burks. How are<br/> 13 you?<br/> 14 A. Fine. How are you?<br/> 15 Q. Good. My name is Gary Fry. I'm one<br/> 16 of the lawyers that's representing Equity Group<br/> 17 Eufaula, the folks that run the poultry plant out<br/> 18 in Baker Hill.<br/> 19 A. Yes, sir.<br/> 20 Q. And we've asked you to come today to<br/> 21 put some questions to you concerning the<br/> 22 allegations that have been made in a lawsuit which<br/> 23 you and some other folks have brought against</p> | <p style="text-align: right;">8</p> <p>1 A. Yes, sir.<br/> 2 Q. I know we all do it. I do it too,<br/> 3 but we can't do it for this purpose. What's your<br/> 4 home address?<br/> 5 A. 119 North Gay Street, Cusper(sic),<br/> 6 Georgia.<br/> 7 Q. And what is your date of birth?<br/> 8 A. 12, 5th day, '56.<br/> 9 Q. Are you currently employed?<br/> 10 A. Yes.<br/> 11 Q. And by whom?<br/> 12 A. Equity Group.<br/> 13 Q. How long have you worked for Equity?<br/> 14 A. Four years.<br/> 15 Q. Four years?<br/> 16 A. Uh-huh.<br/> 17 Q. When did you start?<br/> 18 A. I have to count back four years ago.<br/> 19 I think I started 2002, I believe.<br/> 20 Q. Okay. So that would give you six<br/> 21 years?<br/> 22 A. Yes.<br/> 23 Q. So when you started the plant was</p> |
| <p style="text-align: right;">7</p> <p>1 Equity.<br/> 2 A. Yes, sir.<br/> 3 Q. Have you ever been deposed before?<br/> 4 A. No, sir.<br/> 5 Q. It's a pretty simple procedure. I<br/> 6 will ask you some questions, and you will be giving<br/> 7 me some answers and Victoria, who is our court<br/> 8 reporter, will be taking down what we say. If you<br/> 9 don't understand my question, please let me know,<br/> 10 and I will try and rephrase it so hopefully you<br/> 11 will understand it.<br/> 12 A. Yes, sir.<br/> 13 Q. If you don't hear anything I say, let<br/> 14 me know, and I will repeat it.<br/> 15 A. Okay.<br/> 16 Q. She can only take down one of us at a<br/> 17 time, so let's not try and talk over one another.<br/> 18 Okay?<br/> 19 A. Yes, sir.<br/> 20 Q. And the last request I have is: Any<br/> 21 answer that you give, make it verbal, because she<br/> 22 can't take down a shake or a nod of a head or an<br/> 23 um, or an huh-uh. Okay?</p>      | <p style="text-align: right;">9</p> <p>1 operated by CP?<br/> 2 A. Yes, it was.<br/> 3 Q. And that's Charoen Pokphand?<br/> 4 A. Yes.<br/> 5 Q. What is your current job at the<br/> 6 company?<br/> 7 A. I work in debone.<br/> 8 Q. On the line?<br/> 9 A. Yes, sir.<br/> 10 Q. How long have you worked on the<br/> 11 debone line?<br/> 12 A. Three years.<br/> 13 Q. What did you do before that?<br/> 14 A. I worked as a bone checker.<br/> 15 Q. How long did you do that job?<br/> 16 A. Two years.<br/> 17 Q. Any other jobs?<br/> 18 A. I worked in pack-out.<br/> 19 Q. Pack-out?<br/> 20 A. Yes.<br/> 21 Q. For how long?<br/> 22 A. A year.<br/> 23 Q. So when Equity took over in 2004, you</p>  |

|   |   |
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| <p style="text-align: right;">10</p> <p>1 were a bone checker?</p> <p>2 A. Yes.</p> <p>3 Q. What shift do you work now?</p> <p>4 A. First shift.</p> <p>5 Q. Have you always worked first shift?</p> <p>6 A. Yes, I have.</p> <p>7 Q. What do you do in the debone line?</p> <p>8 A. I cut chicken.</p> <p>9 Q. And do you rotate positions on the</p> <p>10 line with the other people in the line?</p> <p>11 A. Yes, sir.</p> <p>12 Q. How many times per day?</p> <p>13 A. Three times.</p> <p>14 Q. What did you do as a bone checker?</p> <p>15 A. I check the breast meat, check for</p> <p>16 the bones.</p> <p>17 Q. And what did you do in pack-out?</p> <p>18 A. They pack the chicken in boxes, just</p> <p>19 on just line, putting the product in the boxes.</p> <p>20 Q. When you were doing that, the product</p> <p>21 was already packaged in plastic?</p> <p>22 A. No, we hold the boxes and let the</p> <p>23 product come down in it.</p> | <p style="text-align: right;">12</p> <p>1 Q. Monday through Friday?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Have we identified all of the jobs</p> <p>4 that you have performed at the poultry facility at</p> <p>5 Baker Hill?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Are you a member of the Union?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And for how long have you been in the</p> <p>10 Union?</p> <p>11 A. About a year.</p> <p>12 Q. Have you ever been a steward?</p> <p>13 A. No, sir.</p> <p>14 Q. Have you ever been on the negotiating</p> <p>15 committee?</p> <p>16 A. No, sir.</p> <p>17 Q. Have you ever attended any Union</p> <p>18 meetings?</p> <p>19 A. No, sir.</p> <p>20 Q. Am I correct that you are a party to</p> <p>21 this lawsuit?</p> <p>22 A. Yes, sir.</p> <p>23 Q. How did you find out about the</p>  |
| <p style="text-align: right;">11</p> <p>1 Q. Where did you perform that job?</p> <p>2 A. Where did I perform that job, sir?</p> <p>3 Q. Yes.</p> <p>4 A. I don't quite understand what you are</p> <p>5 asking.</p> <p>6 Q. Okay. Was the pack-out location in</p> <p>7 the same building that debone and evisceration is</p> <p>8 in?</p> <p>9 A. Yes, it is.</p> <p>10 Q. Who is your current supervisor?</p> <p>11 A. As of now, I don't know, sir.</p> <p>12 Q. Can you recall --</p> <p>13 A. Tracie -- well, it was Tracie.</p> <p>14 Q. Your debone supervisor?</p> <p>15 A. Yes, sir.</p> <p>16 Q. What is your current rate of pay?</p> <p>17 A. As of right now, sir?</p> <p>18 Q. Yes, ma'am.</p> <p>19 A. \$10 an hour.</p> <p>20 Q. And when you started, what was it?</p> <p>21 A. It was \$8.45, I believe.</p> <p>22 Q. How many hours a week do you work?</p> <p>23 A. Forty.</p>  | <p style="text-align: right;">13</p> <p>1 lawsuit?</p> <p>2 A. I can't explain it, sir, because I</p> <p>3 all I know is we received some papers.</p> <p>4 Q. From the lawyers?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Did you have any conversations about</p> <p>7 the lawsuit with your coworkers?</p> <p>8 A. No, sir.</p> <p>9 Q. Have you ever attended any meetings</p> <p>10 that the lawsuit was discussed?</p> <p>11 A. No, sir.</p> <p>12 Q. What is your understanding as to what</p> <p>13 claim you have in this lawsuit?</p> <p>14 MR. STEENSLAND: Objection.</p> <p>15 Calls for a legal question.</p> <p>16 MR. FRY: You can answer.</p> <p>17 A. Getting paid for the hours that I</p> <p>18 worked for PPE -- I mean, PPE for the hours that I</p> <p>19 worked.</p> <p>20 Q. (Mr. Fry) What's PPE?</p> <p>21 A. The supplies, taking time to put on</p> <p>22 the supplies, wash them up, take them off.</p> <p>23 Q. How did you come to that</p> |

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| <p style="text-align: right;">14</p> <p>1 understanding that that was your claim?</p> <p>2 A. From the time it take me to put on my</p> <p>3 equipment and the time it take me to take it off.</p> <p>4 Q. Have you ever been involved in any</p> <p>5 other lawsuits?</p> <p>6 A. No, sir.</p> <p>7 Q. Did you review any documents to</p> <p>8 prepare for coming here today?</p> <p>9 A. No.</p> <p>10 Q. Did you speak with anyone about your</p> <p>11 deposition?</p> <p>12 A. No, sir.</p> <p>13 Q. Now, you mentioned supplies. Can you</p> <p>14 tell me what supplies you were referring to that</p> <p>15 you use when you work?</p> <p>16 A. Okay. That is the smock, the apron,</p> <p>17 the gloves, the cotton liners, and the boots.</p> <p>18 Q. Anything else?</p> <p>19 A. And the cutting glove.</p> <p>20 Q. The mesh glove?</p> <p>21 A. Yes.</p> <p>22 Q. Anything else?</p> <p>23 A. No, sir.</p> | <p style="text-align: right;">16</p> <p>1 A. And the smock.</p> <p>2 Q. So you are required to wear all these</p> <p>3 items?</p> <p>4 A. All those items.</p> <p>5 Q. Was that true for each of your prior</p> <p>6 jobs as a bone checker and in pack-out?</p> <p>7 A. Yes, it was.</p> <p>8 Q. Do all employees that, as you have</p> <p>9 been able to observe in the debone area, do they</p> <p>10 all wear the same stuff?</p> <p>11 A. Yes, sir.</p> <p>12 Q. There is no variation at all?</p> <p>13 A. No, sir.</p> <p>14 Q. Is it your understanding that you</p> <p>15 will be written up if you don't wear any of this?</p> <p>16 A. Yes, we will.</p> <p>17 Q. And who told you that?</p> <p>18 A. My supervisor.</p> <p>19 Q. And was that true of your two prior</p> <p>20 jobs at the plant?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Did all the folks in pack-out wear</p> <p>23 the identical same things?</p>       |
| <p style="text-align: right;">15</p> <p>1 Q. We have the smock, the apron, the</p> <p>2 gloves, and the liners, the boots --</p> <p>3 A. And the hair nets.</p> <p>4 Q. The boots, the mesh glove -- and now</p> <p>5 the hair net?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Anything else?</p> <p>8 A. No, sir.</p> <p>9 Q. These are the items that you wear on</p> <p>10 the debone line?</p> <p>11 A. Yes.</p> <p>12 Q. Did you wear the same items when you</p> <p>13 were a bone checker?</p> <p>14 A. Yes, I did.</p> <p>15 Q. What about when you worked pack-out?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Same items?</p> <p>18 A. Same items.</p> <p>19 Q. Which of these items that you have</p> <p>20 identified for me are you required to wear?</p> <p>21 A. The hair net, the boots, the cutting</p> <p>22 gloves, the liners, the apron.</p> <p>23 Q. And the smock?</p>   | <p style="text-align: right;">17</p> <p>1 A. Yes, sir.</p> <p>2 Q. Which of these items that you have</p> <p>3 identified for me are given to you by the company?</p> <p>4 A. Gloves are once a month.</p> <p>5 Q. Pardon?</p> <p>6 A. The gloves are given once a month for</p> <p>7 free. The rest we have to pay for.</p> <p>8 Q. But you get them all from the</p> <p>9 company?</p> <p>10 A. Yes, I do.</p> <p>11 Q. You have to pay for your smock?</p> <p>12 A. We don't pay for the smock. We pay</p> <p>13 for the apron, sleeves, and gloves, and stuff like</p> <p>14 that, just the material that we take home.</p> <p>15 Q. Have you always had to pay for those</p> <p>16 items?</p> <p>17 A. Yes, I have.</p> <p>18 Q. Which of these items do you pick up</p> <p>19 on a daily basis?</p> <p>20 A. The gloves -- the liners and the</p> <p>21 plastic gloves.</p> <p>22 Q. Anything else?</p> <p>23 A. No, sir.</p> |

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| <p style="text-align: right;">18</p> <p>1 Q. What about a smock?</p> <p>2 A. The smock is given free.</p> <p>3 Q. On a daily basis?</p> <p>4 A. On a daily basis we have to change</p> <p>5 the smock.</p> <p>6 Q. Where do you pick these items up?</p> <p>7 A. The supply room.</p> <p>8 Q. And you pick them up after you arrive</p> <p>9 for work in the morning?</p> <p>10 A. Yes, sir.</p> <p>11 Q. What are the hours of the first</p> <p>12 shift?</p> <p>13 A. Eight hours, from 7:30 to 4:30.</p> <p>14 Q. And have you worked those same hours</p> <p>15 throughout your whole six years at Equity?</p> <p>16 A. Yes, I have.</p> <p>17 Q. Which of these items, if any, can you</p> <p>18 wear from home?</p> <p>19 A. The boots.</p> <p>20 Q. Do you have a locker at the plant?</p> <p>21 A. No, I doesn't, sir.</p> <p>22 Q. Do you take the apron home with you</p> <p>23 at night?</p>  | <p style="text-align: right;">20</p> <p>1 Q. So if you enter the production area</p> <p>2 at 7:25 and it takes you 15 minutes, you are not</p> <p>3 going to be on time, are you?</p> <p>4 A. That depends on whether the line is</p> <p>5 running because it is so many of us going in at</p> <p>6 once, that's in about 7:25.</p> <p>7 Q. So you all go in at 7:25?</p> <p>8 A. Well, it's so many of us, it might be</p> <p>9 7:25 before you get to the door from the people</p> <p>10 that is coming in.</p> <p>11 Q. How long does it take you to put this</p> <p>12 stuff on?</p> <p>13 A. It takes me from about from five to</p> <p>14 ten minutes.</p> <p>15 Q. Five to ten minutes to put on a smock</p> <p>16 and an apron?</p> <p>17 A. Yes, we have to be quick.</p> <p>18 Q. Well, what do you have to do to put</p> <p>19 the smock on?</p> <p>20 A. Okay. You got to put the smock on,</p> <p>21 tie it up, then put your apron on, then your</p> <p>22 sleeves, your gloves, and everything, and get to</p> <p>23 the wash sink to wash off before we get over to the</p> |
| <p style="text-align: right;">19</p> <p>1 A. Yes, sir.</p> <p>2 Q. These items now that you have</p> <p>3 identified for me, these items of supplies, where</p> <p>4 do you put them on before you start working?</p> <p>5 A. Once we get inside the area where we</p> <p>6 work at.</p> <p>7 Q. Once you get into the --</p> <p>8 A. Debone area.</p> <p>9 Q. -- the debone production floor?</p> <p>10 A. Yes, sir.</p> <p>11 Q. How soon before 7:30 do you go into</p> <p>12 the debone production area to put these items on?</p> <p>13 A. Go in there about 7:25.</p> <p>14 Q. So it takes you about five minutes to</p> <p>15 put this stuff on?</p> <p>16 A. It's from five to 15 minutes,</p> <p>17 depending on how many people is in there.</p> <p>18 Q. Explain that to me.</p> <p>19 A. Of course there is a lot of us. We</p> <p>20 all have to get up there to the line to put them</p> <p>21 on, to the station where they have us to put them</p> <p>22 on at, so you can wash them. Once you put them on,</p> <p>23 you have to wash them.</p> | <p style="text-align: right;">21</p> <p>1 line.</p> <p>2 Q. We are just talking about putting it</p> <p>3 on now.</p> <p>4 A. The smock?</p> <p>5 Q. You mentioned the sleeves. Is that</p> <p>6 another item that you --</p> <p>7 A. Yes, sir. I'm sorry, I forgot about</p> <p>8 the sleeve.</p> <p>9 Q. It's no problem. How long does it</p> <p>10 take you just to put the items on?</p> <p>11 A. It takes me from five to ten minutes</p> <p>12 to put them on.</p> <p>13 Q. It takes you as long as ten minutes</p> <p>14 to put on a smock, an apron, and sleeves, and</p> <p>15 gloves?</p> <p>16 A. Yes, sir. It's a lot to put on once</p> <p>17 you start putting it on and tying it up. You just</p> <p>18 don't put it on and fasten it up, sir.</p> <p>19 Q. Is it hard to tie, your apron?</p> <p>20 A. You tie it in the back.</p> <p>21 Q. Is that difficult?</p> <p>22 A. Yes, it is, unless you standing</p> <p>23 around a lot of people.</p>  |



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| <p style="text-align: right;">22</p> <p>1 Q. Is it difficult to button your smock?</p> <p>2 A. We don't button our smock. We have</p> <p>3 to tie it up too in the back.</p> <p>4 Q. Is it difficult?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Is it difficult to put on your liners</p> <p>7 and your gloves?</p> <p>8 A. Yes, sir, especially when trying to</p> <p>9 get them all on your hand. We have more than one</p> <p>10 glove on -- yes, to put them up on your arm.</p> <p>11 Q. Is it difficult to put on those</p> <p>12 sleeves?</p> <p>13 A. Yes, sir, they are, because you got</p> <p>14 to pull them all the way up there.</p> <p>15 Q. Is that hard?</p> <p>16 A. Yes, sir, when you trying to get them</p> <p>17 up there and get on the line.</p> <p>18 Q. I assume that your job now in the</p> <p>19 debone line requires you to use a knife or</p> <p>20 scissors?</p> <p>21 A. Yes, sir.</p> <p>22 Q. You use both those items?</p> <p>23 A. Yes, sir, I do.</p> | <p style="text-align: right;">24</p> <p>1 wear all those items that you identified for me?</p> <p>2 A. No, sir. No, the only thing they</p> <p>3 don't have to wear, sir, is the cutting gloves and</p> <p>4 stuff.</p> <p>5 Q. What other stuff?</p> <p>6 A. Well, they don't have to wear the</p> <p>7 cutting gloves; they don't have -- some don't even</p> <p>8 have to wear the protective material we have on,</p> <p>9 but they still wear everything that we wear because</p> <p>10 it is required.</p> <p>11 Q. But some items are not required</p> <p>12 depending on the job; is that correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. When you were at pack-out, you didn't</p> <p>15 have to wear or use a knife, did you?</p> <p>16 A. No, sir.</p> <p>17 Q. And you didn't use a glove at that</p> <p>18 point when you were working that job?</p> <p>19 A. Only the cotton liners and the blue</p> <p>20 gloves. We have to use those.</p> <p>21 Q. I'm talking about when you were</p> <p>22 working pack-out, you didn't have to wear those</p> <p>23 items, did you?</p> |
| <p style="text-align: right;">23</p> <p>1 Q. And are they provided to you on the</p> <p>2 line?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And is the mesh glove provided to you</p> <p>5 on the line?</p> <p>6 A. Yes, it is, sir.</p> <p>7 Q. You don't have to do anything to get</p> <p>8 those items, do you?</p> <p>9 A. No, sir.</p> <p>10 Q. And after your shift ends, you don't</p> <p>11 have to do anything to get rid of them, do you?</p> <p>12 A. No, sir.</p> <p>13 Q. And you don't have to maintain them</p> <p>14 or sharpen them, do you?</p> <p>15 A. No, sir.</p> <p>16 Q. Did you use a knife when you were a</p> <p>17 bone checker?</p> <p>18 A. No, sir.</p> <p>19 Q. So you didn't have a mesh glove at</p> <p>20 that point?</p> <p>21 A. No, sir.</p> <p>22 Q. So there are some people that have</p> <p>23 jobs in the debone area that they don't have to</p>   | <p style="text-align: right;">25</p> <p>1 A. Yes, sir, I did.</p> <p>2 Q. When you working pack-out?</p> <p>3 A. When you working pack-out, you got to</p> <p>4 have your sleeves on, and your cotton liners, and</p> <p>5 your gloves on, and your apron.</p> <p>6 Q. Right. When you worked pack-out, you</p> <p>7 did not have to use a knife, correct?</p> <p>8 A. No, sir, we didn't.</p> <p>9 Q. And you didn't have to use a mesh</p> <p>10 glove?</p> <p>11 A. No, sir.</p> <p>12 Q. And you did have to wear a plastic</p> <p>13 arm guard?</p> <p>14 A. No, sir.</p> <p>15 Q. On the debone line, besides a knife</p> <p>16 or scissors, did you use any other tools or</p> <p>17 equipment?</p> <p>18 A. No, sir.</p> <p>19 Q. When you worked as a bone checker,</p> <p>20 did you have to use any tools?</p> <p>21 A. No, sir.</p> <p>22 Q. What about when you worked pack-out?</p> <p>23 A. No, sir.</p>  |

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| <p style="text-align: right;">26</p> <p>1 Q. How many breaks do you get during</p> <p>2 your shift?</p> <p>3 A. Three -- well, really it's two --</p> <p>4 really it would be two.</p> <p>5 Q. Two breaks?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And how long are the breaks?</p> <p>8 A. Supposed to be 30 minutes.</p> <p>9 Q. Did you get two 30-minute breaks when</p> <p>10 you worked as a bone checker?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Did you get the same breaks when you</p> <p>13 were working pack-out?</p> <p>14 A. Yes, sir.</p> <p>15 Q. How do you know when it is time to</p> <p>16 take your break?</p> <p>17 A. Well, when you look up the line and</p> <p>18 see the line is stopping.</p> <p>19 Q. And is it true that some people in</p> <p>20 the debone line leave for break before others?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Because you are not allowed to leave</p> <p>23 until the last bird passes your position?</p> | <p style="text-align: right;">28</p> <p>1 A. Uh-huh.</p> <p>2 Q. And then that break lasts until when?</p> <p>3 A. We be back in there around about --</p> <p>4 sir, I don't quite know because all I know I get up</p> <p>5 and just -- I really don't look at the clock, sir.</p> <p>6 Q. You don't?</p> <p>7 A. No, sir, I never do. I just know</p> <p>8 what time I got to get up in there and just go back</p> <p>9 in and then go to work.</p> <p>10 Q. You say you know what time you got to</p> <p>11 get in there. What time do you have to be in</p> <p>12 there?</p> <p>13 A. If it's at 10:12, we back in there by</p> <p>14 like eleven -- not quite eleven, sir, because I go</p> <p>15 in there early sometimes.</p> <p>16 Q. Do you drive to work?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Do you have to pass through security?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And what does that entail?</p> <p>21 A. The gate, at the security gate.</p> <p>22 Q. And what do you have to do there?</p> <p>23 A. Really nothing.</p> |
| <p style="text-align: right;">27</p> <p>1 A. Yes, sir.</p> <p>2 Q. And when you were a bone checker, is</p> <p>3 it true that you were pretty much the last person</p> <p>4 to leave the line on break?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Because you are at the end of the</p> <p>7 line?</p> <p>8 A. Yes, sir.</p> <p>9 Q. What about pack-out, how did you know</p> <p>10 when to take your break when you were working</p> <p>11 pack-out?</p> <p>12 A. When the last piece of chicken come</p> <p>13 down.</p> <p>14 Q. Now that you're on the debone line,</p> <p>15 how do you know when it's time to end your break</p> <p>16 and go back to work?</p> <p>17 A. Well, we know what time we supposed</p> <p>18 to be back in there, so we all get up and go at the</p> <p>19 same time.</p> <p>20 Q. When is your first break after your</p> <p>21 7:30 start time?</p> <p>22 A. 10:12.</p> <p>23 Q. 10:12?</p>                                | <p style="text-align: right;">29</p> <p>1 Q. You just drive through?</p> <p>2 A. Yes, sir, if you got a sticker on</p> <p>3 your car.</p> <p>4 Q. And do you have a sticker on your</p> <p>5 car?</p> <p>6 A. Yes, I do, sir.</p> <p>7 Q. Have you ever been searched?</p> <p>8 A. No, sir.</p> <p>9 Q. Have you ever been searched coming</p> <p>10 out of work?</p> <p>11 A. No, sir, I haven't.</p> <p>12 Q. At the end of the day when you go by</p> <p>13 that security shack, you can just drive right by</p> <p>14 it, correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. What time do you try and get to the</p> <p>17 plant in the morning?</p> <p>18 A. Around about seven o'clock.</p> <p>19 Q. And has that been true of you</p> <p>20 throughout the time you've worked at the plant?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Tell me what you do from 7 a.m. until</p> <p>23 you start working at 7:30.</p>  |

## MERRILL LEGAL SOLUTIONS

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| <p style="text-align: right;">30</p> <p>1 A. I go and get my supplies, and I go<br/>2 back to the break room, and I wait to go to work.<br/>3 Q. And what --<br/>4 A. I wait to go to work.<br/>5 Q. When do you clock in?<br/>6 A. I clock in at 7:15.<br/>7 Q. And do you do that in the break room?<br/>8 A. Yes, sir, I do.<br/>9 Q. So you go get your supplies before<br/>10 you clock in?<br/>11 A. Yes, sir.<br/>12 Q. How long does it take you to get your<br/>13 supplies?<br/>14 A. Depending on how long the line is,<br/>15 sir.<br/>16 Q. What's the longest you've ever<br/>17 waited?<br/>18 A. I have waited that bad, about a<br/>19 whole.<br/>20 Q. Pardon?<br/>21 A. I wait a whole hour, depending on how<br/>22 long the line is.<br/>23 Q. You have waited at the supply --</p>                           | <p style="text-align: right;">32</p> <p>1 A. No, sir.<br/>2 Q. -- before you start work?<br/>3 A. No, sir.<br/>4 Q. How long does it take you to walk<br/>5 from the break room to the production area?<br/>6 A. About five minutes.<br/>7 Q. It's a five-minute walk?<br/>8 A. About -- from I would say about --<br/>9 not quite five minutes.<br/>10 Q. How far is it?<br/>11 A. It's from the break room -- it's from<br/>12 like from here to right there. Like I said, we<br/>13 have a line, a group of people going in.<br/>14 Q. I know, but that doesn't affect the<br/>15 amount of distance, correct?<br/>16 A. Okay. It's about -- not quite a<br/>17 minute walk, you know.<br/>18 Q. It's right across the hall from the<br/>19 break room, isn't it?<br/>20 A. Yes, sir, it is.<br/>21 Q. And the first thing you have to do<br/>22 when you go to go into the production doors, you go<br/>23 through two double doors --</p> |
| <p style="text-align: right;">31</p> <p>1 A. About an hour.<br/>2 Q. -- room for a whole hour?<br/>3 A. For, yes, the whole hour because the<br/>4 line will get longer.<br/>5 Q. And how many times have you waited a<br/>6 whole hour?<br/>7 A. It mostly come on Mondays.<br/>8 Q. On Mondays?<br/>9 A. Yes, sir.<br/>10 Q. So do you come early on Mondays?<br/>11 A. Yes, sir, I do.<br/>12 Q. What time do you get there on<br/>13 Mondays?<br/>14 A. I get there around about six o'clock.<br/>15 Q. Is there an hour wait at the supply<br/>16 line every Monday?<br/>17 A. Yes, sir, it is.<br/>18 Q. How long do you have to wait in the<br/>19 break room before it's time for you to go in and<br/>20 start working?<br/>21 A. About 10 or 15 minutes.<br/>22 Q. You're not required to go get any<br/>23 tools --</p> | <p style="text-align: right;">33</p> <p>1 A. Yes, we do.<br/>2 Q. You have to wait. You let me finish<br/>3 my question. You go through the initial double<br/>4 doors and you go through a foot bath?<br/>5 A. Yes, sir.<br/>6 Q. Do you have to stop there?<br/>7 A. Yes, sir.<br/>8 Q. How long are you in that foot bath?<br/>9 A. About a minute.<br/>10 Q. And then you go through the double<br/>11 doors into the production area?<br/>12 A. Yes, sir.<br/>13 Q. And that's when you put on your<br/>14 supplies?<br/>15 A. Yes, sir.<br/>16 Q. And the procedure that you have<br/>17 described for me that you do now that you are<br/>18 working the debone line in the morning, your<br/>19 arrival time, and what you do afterwards, is that<br/>20 what pretty much what you did when you worked as a<br/>21 bone checker?<br/>22 A. No, sir.<br/>23 Q. What was different when you worked as</p>                                |

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| <p style="text-align: right;">34</p> <p>1 a bone checker?</p> <p>2 A. The differences when I worked as a</p> <p>3 bone checker. Okay. Sir, I didn't have to put on</p> <p>4 all that stuff that they require, like the chain</p> <p>5 gloves, and everything like that. I only walked up</p> <p>6 there and stood at the end of the line.</p> <p>7 Q. So on a bone checker you didn't have</p> <p>8 to put on so much stuff, correct?</p> <p>9 A. Not the cutting gloves and the arm</p> <p>10 guard and stuff like that.</p> <p>11 Q. Well, were there -- is there other</p> <p>12 stuff?</p> <p>13 A. No, sir, just the regular stuff to</p> <p>14 put to on.</p> <p>15 Q. So the only difference in the routine</p> <p>16 that you described for me -- the routine being what</p> <p>17 you did from the time you arrived until you started</p> <p>18 to work -- the only difference between what you do</p> <p>19 now and what you did when you were a bone checker</p> <p>20 is when you were a bone checker you didn't use the</p> <p>21 arm guard and the mesh glove; is that correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Again with reference to when you</p> | <p style="text-align: right;">36</p> <p>1 A. Hang it on the stand that they have</p> <p>2 for us, and then we go to break.</p> <p>3 Q. How long does that process take?</p> <p>4 A. Well, it takes me 15 minutes to get</p> <p>5 off mine.</p> <p>6 Q. At every break period?</p> <p>7 A. Yes, because I be at the end of the</p> <p>8 line.</p> <p>9 Q. Do all of the debone folks wash</p> <p>10 before they leave the debone area?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Describe for me now what you need to</p> <p>13 do to get back to work after your break is over.</p> <p>14 A. I need to leave the break room, go</p> <p>15 back into the area where I work at, put on all my</p> <p>16 protective material I am supposed to put on, wash</p> <p>17 it off, and then get on the line.</p> <p>18 Q. How long does that take you?</p> <p>19 A. Right about ten minutes.</p> <p>20 Q. Ten minutes?</p> <p>21 A. Yes, sir.</p> <p>22 Q. How much time do you spend in the</p> <p>23 break room?</p> |
| <p style="text-align: right;">35</p> <p>1 worked in pack-out, did your morning routine</p> <p>2 progress pretty much as you have described it to</p> <p>3 me?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Was anything different about it when</p> <p>6 you worked in pack-out?</p> <p>7 A. No, sir.</p> <p>8 Q. Describe for me now what you need to</p> <p>9 do to go on break in terms of your supplies.</p> <p>10 A. To go on break?</p> <p>11 Q. Yes, ma'am.</p> <p>12 A. I don't quite understand what you're</p> <p>13 saying, sir.</p> <p>14 Q. You can't go into the break room with</p> <p>15 your supplies on, can you?</p> <p>16 A. No, sir.</p> <p>17 Q. What do you have to do from the time</p> <p>18 you leave your position on the debone line until</p> <p>19 you get to the break room?</p> <p>20 A. Yes, sir. We have to go get off the</p> <p>21 line, go up there to the wash station, wash it off,</p> <p>22 and take it off.</p> <p>23 Q. Then what do you do?</p>   | <p style="text-align: right;">37</p> <p>1 A. What do I spend in the break room,</p> <p>2 sir? I don't understand what you mean by that.</p> <p>3 Q. Do you get a full 30-minute break?</p> <p>4 A. No, sir, because we have to get</p> <p>5 everything --</p> <p>6 Q. How long is your break?</p> <p>7 A. Our break is supposed to be 30</p> <p>8 minutes.</p> <p>9 Q. How long do you actually get?</p> <p>10 A. Well, I actually get around about 20.</p> <p>11 Q. So you told me that when it's time to</p> <p>12 go on break, you spend 15 minutes getting to the</p> <p>13 break room?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Then you spend 20 minutes in the</p> <p>16 break room?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And then it takes you ten minutes to</p> <p>19 get back on the line?</p> <p>20 A. Yes, sir.</p> <p>21 Q. That's 45 minutes?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And does it typically take you about</p>   |

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| <p style="text-align: right;">38</p> <p>1 45 minutes to do that?</p> <p>2 A. Yes, sir. If you are at the end of</p> <p>3 the line, you are going to be the last one that get</p> <p>4 back in trying to get your stuff on.</p> <p>5 Q. So your break and everything that's</p> <p>6 connected with it takes generally about 45 minutes?</p> <p>7 A. Yes, sir, it does.</p> <p>8 Q. So when you told me that on your</p> <p>9 first break when you leave about 10:12, you have to</p> <p>10 be back around eleven o'clock, correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And does that same time structure</p> <p>13 apply to the second break as well?</p> <p>14 A. Yes, it does, sir.</p> <p>15 Q. This routine that you have described</p> <p>16 for me that you do when you go on break and come</p> <p>17 off break, was that pretty much the same routine</p> <p>18 that you followed when you were a bone checker?</p> <p>19 A. Yes, it is.</p> <p>20 Q. And did this same routine apply when</p> <p>21 you were in pack-out?</p> <p>22 A. Yes, it does.</p> <p>23 Q. If you would now, would you take me</p> | <p style="text-align: right;">40</p> <p>1 My gloves, I mostly have to discard them because</p> <p>2 they might have a hole in them.</p> <p>3 Q. Ms. Burks, what is your understanding</p> <p>4 of how the company keeps track of your time in</p> <p>5 order to pay you?</p> <p>6 A. I don't quite understand what you're</p> <p>7 saying.</p> <p>8 Q. You're paid for an eight-hour day.</p> <p>9 Is that your understanding?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And do you have any understanding as</p> <p>12 to how the company keeps track of that time?</p> <p>13 A. Time cards -- our time cards.</p> <p>14 Q. What time card are you referring to?</p> <p>15 A. The one that we clock in with.</p> <p>16 Q. Have you ever heard the phrase Master</p> <p>17 Card?</p> <p>18 A. Yes, I have.</p> <p>19 Q. And does it have any meaning to you?</p> <p>20 A. Sir, I only know that the supervisor</p> <p>21 have that.</p> <p>22 Q. And what's your understanding of what</p> <p>23 the Master Card is?</p> |
| <p style="text-align: right;">39</p> <p>1 through what you need to do at the end of the day</p> <p>2 to leave the plant from the time the product stops</p> <p>3 coming to your workstation to when you exit the</p> <p>4 plant?</p> <p>5 A. Okay. I don't quite understand what</p> <p>6 you're saying, sir.</p> <p>7 Q. What do you have to do to leave? The</p> <p>8 chicken stops coming, you have to take some things</p> <p>9 off, you have to go certain places, don't you?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Tell me what you do.</p> <p>12 A. I go to the wash station, wash off my</p> <p>13 supplies, take it off, and leave out the double</p> <p>14 doors to the break room, and clock out.</p> <p>15 Q. How long does that process take?</p> <p>16 A. About 15 minutes.</p> <p>17 Q. What do you do with the smock?</p> <p>18 A. The smock go back into the -- go back</p> <p>19 to the plant. They have a bin set right beside the</p> <p>20 wall.</p> <p>21 Q. Do you discard any other items on a</p> <p>22 daily basis?</p> <p>23 A. Depends on how good shape it's in.</p>                    | <p style="text-align: right;">41</p> <p>1 A. They clock you out and tell what time</p> <p>2 you clock out.</p> <p>3 Q. Are you paid on the basis of Master</p> <p>4 Card time?</p> <p>5 A. No, I'm not.</p> <p>6 Q. You are paid on the basis of when you</p> <p>7 clock in, is that your understanding?</p> <p>8 A. Yes, that is my understanding, sir.</p> <p>9 Q. Have you ever had occasion to</p> <p>10 complain to your supervisor about your paycheck?</p> <p>11 A. No, I haven't.</p> <p>12 Q. Do you get paid on a weekly basis?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Do you check the payroll information</p> <p>15 that's on the stub?</p> <p>16 A. Yes, I do, sir.</p> <p>17 Q. Going back a little bit -- the</p> <p>18 routine that you describe for me that you follow at</p> <p>19 the end of the day to leave the plant, do you</p> <p>20 recall that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Was that the same as you followed</p> <p>23 when you were a bone checker?</p>                           |

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| <p style="text-align: right;">42</p> <p>1 A. Yes, sir.</p> <p>2 Q. And was it the same as when you were</p> <p>3 working pack-out?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Do you keep track of the hours that</p> <p>6 you work each day?</p> <p>7 A. Yes, sir, I do.</p> <p>8 Q. How do you do that?</p> <p>9 A. I write it down.</p> <p>10 Q. You write it down?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Where do you write it down?</p> <p>13 A. On my notepad in my break room.</p> <p>14 Q. Do you keep those records?</p> <p>15 A. Yes, sir, I do.</p> <p>16 Q. And how many of them do you have?</p> <p>17 A. I should have quite a few of them by</p> <p>18 now.</p> <p>19 Q. Did your lawyer ask that you produce</p> <p>20 those records to him?</p> <p>21 A. No, sir.</p> <p>22 Q. And how long have you been keeping</p> <p>23 these records?</p>   | <p style="text-align: right;">44</p> <p>1 this lawsuit?</p> <p>2 A. No, I haven't.</p> <p>3 Q. In any of your jobs, were you ever</p> <p>4 asked to work overtime?</p> <p>5 A. Yes, I was.</p> <p>6 Q. And when that occurred, were you paid</p> <p>7 time-and-a-half for that time?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Have you ever had any complaints</p> <p>10 about how your overtime was computed?</p> <p>11 A. No, sir.</p> <p>12 Q. Have you ever filed a grievance with</p> <p>13 the Union over any pay issue?</p> <p>14 A. No, I haven't.</p> <p>15 Q. Have you ever filed any grievance</p> <p>16 with the Union?</p> <p>17 A. No.</p> <p>18 Q. Do you know of anyone who has ever</p> <p>19 filed a grievance with the Union over any pay</p> <p>20 issue?</p> <p>21 A. No, sir.</p> <p>22 Q. Have you ever been disciplined?</p> <p>23 A. No, sir.</p>  |
| <p style="text-align: right;">43</p> <p>1 A. About two years.</p> <p>2 Q. And why did you start keeping these</p> <p>3 records?</p> <p>4 A. I just keep them, sir.</p> <p>5 Q. Explain to me what your records show.</p> <p>6 A. The hours that I work.</p> <p>7 Q. Based on what?</p> <p>8 A. From the time it take me to get in</p> <p>9 there, get off the line, and clock back out.</p> <p>10 MR. FRY: John, I would ask that</p> <p>11 you produce those records to us.</p> <p>12 MR. STEENSLAND: I don't think</p> <p>13 that would be a problem. Maybe when we get done</p> <p>14 here, I can take it up with you. I don't think</p> <p>15 that would be a problem.</p> <p>16 MR. FRY: I don't anticipate that</p> <p>17 would be a problem. I was just making a request.</p> <p>18 Thank you.</p> <p>19 Q. (Mr. Fry) Do you know of anyone else</p> <p>20 that keeps similar records of the hours?</p> <p>21 A. No, I don't.</p> <p>22 Q. Have you made any calculations as to</p> <p>23 the amount of money which you think you are owed in</p> | <p style="text-align: right;">45</p> <p>1 Q. We are almost done.</p> <p>2 MR. FRY: Could we mark this P.</p> <p>3 Burks Exhibit 1, because there is more than one</p> <p>4 Burks.</p> <p>5 (WHEREUPON, a document was marked</p> <p>6 as P. Burks Exhibit 1 and is</p> <p>7 attached to the original</p> <p>8 transcript.)</p> <p>9 Q. (Mr. Fry) Ms. Burks, I am showing</p> <p>10 you a document now that we have marked as P. Burks</p> <p>11 Exhibit 1, and it is a document that's headed</p> <p>12 Declaration, and under Paragraph 1 is your name, is</p> <p>13 it not?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Can you take a minute and review this</p> <p>16 for me, and let me know when you have reviewed it?</p> <p>17 I just have a few questions. It won't take long.</p> <p>18 (Plaintiff reviews P. Burks</p> <p>19 exhibit 1.)</p> <p>20 Q. (Mr. Fry) Okay. Ms. Burks, is that</p> <p>21 your signature on Page 3?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Do you recall signing this document?</p> |



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1 A. Yes, sir.  
 2 Q. And do you recall reading it before  
 3 you signed it?  
 4 A. Yes, sir.  
 5 Q. And when you read it, did everything  
 6 appear accurate to you?  
 7 A. Yes, sir.  
 8 Q. Do you know who prepared the  
 9 document?  
 10 A. No, sir.  
 11 Q. Do you recall when you signed it?  
 12 It's dated 24 February of 2007.  
 13 A. Yes, sir.  
 14 Q. Is that about the time you signed it?  
 15 A. Yes, sir.  
 16 Q. Where did you sign it?  
 17 A. I can't quite remember right now,  
 18 sir.  
 19 Q. And you don't recall who presented it  
 20 to you?  
 21 A. Not at this time, sir.  
 22 Q. I'd like to refer you first to  
 23 Paragraph 6 of the document. It's on the first

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1 page.  
 2 A. Yes, sir.  
 3 Q. And if you follow along with me. I'm  
 4 going to read a portion of it, and we're going to  
 5 start at the beginning. Quote, during my entire  
 6 employment with Defendant, I was not fully paid for  
 7 pre-production line and post-production line  
 8 activities that are necessary, integral, and  
 9 indispensable to my payroll employment  
 10 responsibilities, closed quote. Did I read that  
 11 correctly?  
 12 A. Yes, sir.  
 13 MR. STEENSLAND: I am sorry,  
 14 "payroll", are you talking about overall?  
 15 MR. FRY: Yes, overall. Good  
 16 job.  
 17 Q. (Mr. Fry) And then the next sentence  
 18 starts: Such as the time it takes to clear  
 19 security. Do you see that?  
 20 A. Okay. I'm looking for that.  
 21 Q. Very last line.  
 22 A. Yes. Okay, sir.  
 23 Q. You are not making any claim in this

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1 case for time to clear security, are you?  
 2 A. No.  
 3 MR. STEENSLAND: Objection.  
 4 Calls for a legal question.  
 5 Q. (Mr. Fry) Are you?  
 6 MR. STEENSLAND: You can answer.  
 7 A. No, sir.  
 8 Q. (Mr. Fry) Did you point out to  
 9 whoever gave you this document that this was  
 10 inaccurate?  
 11 A. Not at this time, sir. I don't  
 12 understand that.  
 13 Q. Well, let me ask it this way. In  
 14 this Declaration, which you say you reviewed and  
 15 you signed, you say in Paragraph 6 that you weren't  
 16 fully compensated for time, and part of that time  
 17 was the time it took to clear security. And if you  
 18 go to the very end of the paragraph, you have  
 19 declared that you're claiming time for clearing  
 20 security at the end of the day, at the very end of  
 21 Paragraph 6. Do you see that?  
 22 A. Yes, sir, I see that.  
 23 Q. You told me previously that you don't

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1 expend any time clearing security, you just drive  
 2 on and off, correct?  
 3 A. Yes, sir.  
 4 Q. So you are not making a claim for  
 5 that time, are you?  
 6 A. No, sir, I'm not.  
 7 Q. And did you point that out to whoever  
 8 gave you this Declaration to sign?  
 9 A. No, sir, I didn't.  
 10 Q. Turn, if you would, to Page 2, and  
 11 I'm still on Paragraph 6, and if you go five lines  
 12 up from the end of that paragraph -- are you with  
 13 me?  
 14 A. Yes, sir, I am.  
 15 Q. Where the Declaration reads, quote,  
 16 waiting in line to return required supplies, tools,  
 17 and other equipment needed for line activities,  
 18 closed quote. Do you see that?  
 19 A. Yes, I see that.  
 20 Q. Do you ever wait in line to return  
 21 any tools or supplies?  
 22 A. No, sir, I don't.  
 23 Q. You are not making a claim for that

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| <p style="text-align: right;">50</p> <p>1 in this case, are you?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you point that out to the person</p> <p>4 who gave you this Declaration?</p> <p>5 A. No, sir.</p> <p>6 Q. Is there any reason why you didn't?</p> <p>7 A. I didn't understand it, sir.</p> <p>8 Q. Didn't understand what?</p> <p>9 A. What you -- did I point it out to</p> <p>10 this, tell them?</p> <p>11 Q. Yes, that that was inaccurate.</p> <p>12 A. No, sir, I didn't.</p> <p>13 Q. Is there any reason why you didn't?</p> <p>14 A. No, sir, I didn't.</p> <p>15 Q. Turn, if you would, now to Paragraph</p> <p>16 10. And I would like you to refer to the second</p> <p>17 full sentence in that paragraph, and I will read</p> <p>18 it. Quote, numerous employees have expressed their</p> <p>19 desire to join this litigation, but have not done</p> <p>20 so to date because of fear of retaliation by</p> <p>21 Defendant and its managers, period, closed quote.</p> <p>22 Did I read that correctly?</p> <p>23 A. Yes, sir.</p>  | <p style="text-align: right;">52</p> <p>1 intimidated about joining this lawsuit?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you point it out to the person</p> <p>4 who gave you this Declaration that that was</p> <p>5 inaccurate?</p> <p>6 A. No, sir.</p> <p>7 Q. Is there any reason why you didn't?</p> <p>8 A. No, sir.</p> <p>9 MR. FRY: I have no further</p> <p>10 questions. Thank you.</p> <p>11 MR. STEENSLAND: Ms. Burks, I</p> <p>12 have a few questions.</p> <p>13</p> <p>14 EXAMINATION BY MR. STEENSLAND:</p> <p>15 Q. Have you ever heard the term Personal</p> <p>16 Protective Equipment -- or PPE, as it's sometimes</p> <p>17 referred?</p> <p>18 A. Yes, sir.</p> <p>19 Q. When you were discussing the list of,</p> <p>20 I believe Mr. Fry referred to them as supplies, you</p> <p>21 named a few things. Could you please name the</p> <p>22 things that you consider part of the PPE as you</p> <p>23 understand it?</p> |
| <p style="text-align: right;">51</p> <p>1 Q. How many employees are you aware of</p> <p>2 have not joined this lawsuit because they fear</p> <p>3 retaliation from the company?</p> <p>4 A. I don't know any, sir.</p> <p>5 Q. Did you point that out to the person</p> <p>6 who gave you this Declaration to sign?</p> <p>7 A. No, sir.</p> <p>8 Q. Is there any reason why you didn't?</p> <p>9 A. No, sir.</p> <p>10 Q. The last sentence in Paragraph 10</p> <p>11 reads. Quote, to that end, Defendant and its</p> <p>12 managers have attempted to discourage and/or</p> <p>13 intimidate my coworkers from joining this lawsuit</p> <p>14 by issuing both expressed and implied threats</p> <p>15 involving job security, period, closed quote. Did</p> <p>16 I read that correctly?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Do you know of any coworkers who have</p> <p>19 been threatened with loss of their job if they join</p> <p>20 this lawsuit?</p> <p>21 A. No, sir.</p> <p>22 Q. Do you know of any of your coworkers</p> <p>23 who were discouraged or in any way threatened or</p> | <p style="text-align: right;">53</p> <p>1 MR. FRY: I'd just like to</p> <p>2 object. I used the word supplies because she did.</p> <p>3 MR. STEENSLAND: Maybe you both</p> <p>4 used the word supplies.</p> <p>5 Q. (Mr. Steensland) But you are</p> <p>6 familiar with PPE, or that term?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Could you please tell us what you</p> <p>9 consider to be part of PPE?</p> <p>10 A. The hair net, the cutting gloves, the</p> <p>11 cutting liners, the blue gloves, the apron, the</p> <p>12 sleeves and the arm guard.</p> <p>13 Q. Is there a smock, is that --</p> <p>14 A. Yes.</p> <p>15 Q. How about boots?</p> <p>16 A. And the boots.</p> <p>17 Q. Ear plugs, you have to wear ear</p> <p>18 plugs?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Are all those that you listed, are</p> <p>21 those considered part of PPE?</p> <p>22 A. Yes, it is.</p> <p>23 Q. In talking with Mr. Fry, you talked</p>           |



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|---|--|
| <p style="text-align: right;">54</p> <p>1 about your two break periods. Do you remember</p> <p>2 that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. You said they are each 30 minutes</p> <p>5 long?</p> <p>6 A. Yes, sir.</p> <p>7 Q. But you said that sometimes, or you</p> <p>8 made reference to it taking up to 45 minutes from</p> <p>9 the start of the break until you got back to the</p> <p>10 line?</p> <p>11 A. Yes, sir.</p> <p>12 Q. That means you are late every time</p> <p>13 from break?</p> <p>14 A. I said that, sir, because I usually</p> <p>15 get in earlier. Some of them might not get back at</p> <p>16 that time because it's -- once we get in there,</p> <p>17 it's just enough room for a few people to get ready</p> <p>18 right quick and get on the line.</p> <p>19 Q. What about do you work on the back of</p> <p>20 the line or the front of the line?</p> <p>21 A. I work on the back of the line.</p> <p>22 Q. Okay. So you are one of the last</p> <p>23 ones to leave for break?</p> | <p style="text-align: right;">56</p> <p>1 Q. What's the last thing that you do</p> <p>2 before you swipe your card or clock out?</p> <p>3 A. You have to take the PPEs off.</p> <p>4 Q. And what's the last -- is there a</p> <p>5 bin, I think -- or I can't remember how you</p> <p>6 referred to it -- as a bin or a buggy?</p> <p>7 A. A bin they have they put the smocks</p> <p>8 in.</p> <p>9 Q. Is that the last thing you do before</p> <p>10 you --</p> <p>11 A. Leave the plant.</p> <p>12 Q. -- before you swipe your card to</p> <p>13 clock?</p> <p>14 A. Yes.</p> <p>15 Q. In the time that you have worked for</p> <p>16 Equity, you've worked for about three years on</p> <p>17 debone. Did I hear you right?</p> <p>18 A. Right.</p> <p>19 Q. At any point in time were you</p> <p>20 required to take your smock home?</p> <p>21 A. Yes, we was.</p> <p>22 Q. How did you get your smock? Did the</p> <p>23 company issue them to you?</p> |
| <p style="text-align: right;">55</p> <p>1 A. Yes, sir.</p> <p>2 Q. Breaks are 30 minutes?</p> <p>3 A. Yes, sir.</p> <p>4 Q. From when you leave the line when the</p> <p>5 break starts if you are not back in 30 minutes,</p> <p>6 what happens?</p> <p>7 A. You get wrote up.</p> <p>8 Q. Are you saying it always takes you 45</p> <p>9 minutes to complete your break?</p> <p>10 A. No, it doesn't.</p> <p>11 Q. So you are you able to get the gear</p> <p>12 off to leave for break, put the gear back on coming</p> <p>13 back from the break, and get to your line within 30</p> <p>14 minutes?</p> <p>15 A. Yes, we have to be in there on the</p> <p>16 line when the line starts, sir.</p> <p>17 Q. When you first get to the plant in</p> <p>18 the morning before you can put on your PPE, do you</p> <p>19 have to sanitize your boots?</p> <p>20 A. Yes, we do.</p> <p>21 Q. Before you leave you clock out at the</p> <p>22 end of the shift. Did you testify to that?</p> <p>23 A. Yes, sir.</p>     | <p style="text-align: right;">57</p> <p>1 A. We bought the smocks.</p> <p>2 Q. How many did you have at that point</p> <p>3 in time?</p> <p>4 A. We had five.</p> <p>5 Q. And when you took them home with you,</p> <p>6 what did you have to do with them?</p> <p>7 A. We have to wash them.</p> <p>8 Q. What happens if you didn't wash them?</p> <p>9 A. You couldn't wear them. They have an</p> <p>10 odor to them, sir.</p> <p>11 MR. FRY: I'm sorry I missed</p> <p>12 that.</p> <p>13 Q. (Mr. Steensland) Did you say they</p> <p>14 had an odor to them?</p> <p>15 A. Yes, they do, from the product.</p> <p>16 Q. Do you remember how long of a time</p> <p>17 period it was that you had to take the smock home</p> <p>18 with you and wash them while you worked for Equity</p> <p>19 Group?</p> <p>20 A. No, sir, I can't recall.</p> <p>21 Q. But there was a period of time when</p> <p>22 you had to do that?</p> <p>23 A. Yes, sir.</p>       |

|  |   |
|--|---|
| <p style="text-align: right;">58</p> <p>1 Q. Did that procedure change at some</p> <p>2 point in time?</p> <p>3 A. Yes, sir, it did.</p> <p>4 Q. What happened then?</p> <p>5 A. They started washing them, and we</p> <p>6 received them as we come to the plant before we go</p> <p>7 in the room.</p> <p>8 Q. During that same period of time we</p> <p>9 are discussing while you are working for Equity</p> <p>10 Group, was there a point in time you could not wear</p> <p>11 your boots out of the plant and wear them home?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And what did you have to do during</p> <p>14 that period of time that was required of you?</p> <p>15 A. Well, you put them on before you</p> <p>16 leave the plant inside. And before you come in you</p> <p>17 got to take them off before you go outside, and</p> <p>18 when you come in, you put them on when you get in</p> <p>19 the plant.</p> <p>20 Q. At some point in time, did that</p> <p>21 procedure change?</p> <p>22 A. Yes, sir, it did.</p> <p>23 Q. How long was it, if you can recall,</p> | <p style="text-align: right;">60</p> <p>1 A. The line leader.</p> <p>2 Q. And would it be everybody in your</p> <p>3 group or department or section that is doing these</p> <p>4 exercises or stretching?</p> <p>5 A. Everyone in my department.</p> <p>6 Q. Can you describe -- obviously you</p> <p>7 can't show it because the court reporter can't take</p> <p>8 that down -- can you kind of describe what those</p> <p>9 stretches or exercises are the best you can?</p> <p>10 A. Yes, sir, it's with your hand, using</p> <p>11 your hand, working your fingers.</p> <p>12 Q. Squeezing them in and out?</p> <p>13 A. Yes, like that. But squeezing your</p> <p>14 hand out like that, and then you do the hand</p> <p>15 backward.</p> <p>16 Q. Pulling them back?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Anything with your arms or --</p> <p>19 A. Yes, sir.</p> <p>20 Q. -- bending over or anything?</p> <p>21 A. Yes, sir, we have to.</p> <p>22 Q. Arm circles?</p> <p>23 A. Yes, rotate your arms.</p> |
| <p style="text-align: right;">59</p> <p>1 was it that you could not wear them outside the</p> <p>2 plant, the boots?</p> <p>3 A. I can't quite say, sir.</p> <p>4 Q. When the procedure changed, what</p> <p>5 about it changed, they allowed you to wear them</p> <p>6 outside?</p> <p>7 A. Yes, sir, you wear your boots</p> <p>8 outside.</p> <p>9 Q. Is that how you wear them now?</p> <p>10 A. Yes, sir.</p> <p>11 Q. I know we discussed with you leave</p> <p>12 from break. When you are coming back from break,</p> <p>13 did everybody have to be back on the line at the</p> <p>14 same time?</p> <p>15 A. Yes, sir.</p> <p>16 Q. You couldn't get back there just</p> <p>17 before the chicken got to your part of the line?</p> <p>18 A. No, sir, you got wrote up.</p> <p>19 Q. At any point in time when you worked</p> <p>20 on the line, had you ever been instructed to do any</p> <p>21 stretching or exercising?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Who tells you to do that?</p>  | <p style="text-align: right;">61</p> <p>1 Q. So there are several exercises you</p> <p>2 have to do?</p> <p>3 A. Yes, sir.</p> <p>4 Q. What happens if you just chose not to</p> <p>5 do them?</p> <p>6 A. You get wrote up.</p> <p>7 Q. And you are not doing these while the</p> <p>8 chickens are passing by you, are you?</p> <p>9 A. No, sir, that's when you first come</p> <p>10 in, sir.</p> <p>11 Q. And the shift starts at 7:30?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Are there times when you had to do</p> <p>14 them before 7:30, these exercises?</p> <p>15 A. No, sir, not that I know of.</p> <p>16 Q. Not that you can recall?</p> <p>17 A. No, sir.</p> <p>18 Q. Mr. Fry talked about some items that</p> <p>19 were required for certain people that worked with</p> <p>20 scissors or knives. Do you remember that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And you mentioned some type of mesh</p> <p>23 gloves or cutting gloves and an arm shield?</p>   |

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| <p style="text-align: right;">62</p> <p>1 A. Yes, sir.</p> <p>2 Q. Other than that, is everything that</p> <p>3 those employees working on those jobs wore the same</p> <p>4 as yours?</p> <p>5 A. No, sir. The ones that work in</p> <p>6 pack-out doesn't have to wear all those.</p> <p>7 Q. What about on the line in debone?</p> <p>8 A. Debone we have to wear it. Debone</p> <p>9 wears.</p> <p>10 Q. The people that still have to wear</p> <p>11 those mesh gloves or arm guards, do they still have</p> <p>12 to take the rest of the items they wore off and</p> <p>13 wash them down before they went to break?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And before they came back?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Before they left for the day?</p> <p>18 A. Yes, sir.</p> <p>19 Q. They worked the same shift as you</p> <p>20 did?</p> <p>21 A. Yes, sir.</p> <p>22 MR. STEENSLAND: Nothing</p> <p>23 further.</p> | <p style="text-align: right;">64</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |
| <p style="text-align: right;">63</p> <p>1 MR. FRY: I have nothing</p> <p>2 further. Thank you very much.</p> <p>3 10:49 a.m.</p> <p>4 *****</p> <p>5 FURTHER DEPONENT SAITH NOT</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |  |

**TAB 12**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
LATOYA CORBITT

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of LATOYA CORBITT</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 22nd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-30</p> <p>4   MR. CAMP                 30</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   (No exhibits were</p> <p>8   submitted to said deposition.)</p> <p>9</p> <p>10   Reporter's Certificate         31</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2   or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4   that the notice of filing of the deposition by</p> <p>5   the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. ROBERT J. CAMP</p> <p>5       THE COCHRAN FIRM, P.C.</p> <p>6       ATTORNEYS AT LAW</p> <p>7       505 North 20th Street</p> <p>8       Suite 825</p> <p>9       Birmingham, Alabama 35203</p> <p>10      (205) 244-1115</p> <p>11</p> <p>12   ON BEHALF OF THE DEFENDANT:</p> <p>13      MR. MALCOLM S. GOULD</p> <p>14      PELINO &amp; LENTZ</p> <p>15      ATTORNEYS AT LAW</p> <p>16      One Liberty Place</p> <p>17      Thirty-Second Floor</p> <p>18      1650 Market Street</p> <p>19      Philadelphia, Pennsylvania 19103</p> <p>20      (215) 665-1540</p> <p>21</p> <p>22   *****</p> <p>23</p> |

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified<br/> 2 Court Reporter of Eufaula, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at the Law Offices of WILLIAMS,<br/> 7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange<br/> 8 Avenue, Eufaula, Alabama 36027, beginning at<br/> 9 1:30 p.m., LATOYA CORBITT, witness in the above<br/> 10 cause, for oral examination, whereupon the<br/> 11 following proceedings were had:<br/> 12<br/> 13 LATOYA CORBITT,<br/> 14 being first duly sworn, was examined and<br/> 15 testified as follows:<br/> 16<br/> 17 THE COURT REPORTER: Usual<br/> 18 stipulations?<br/> 19 MR. CAMP: Yes.<br/> 20 MR. GOULD: Yes.<br/> 21<br/> 22 EXAMINATION<br/> 23 BY MR. GOULD:</p>   | <p style="text-align: right;">8</p> <p>1 each other; and it will also make sure that you<br/> 2 hear my full question before you give your answer.<br/> 3 A. Yes, sir.<br/> 4 Q. If, during the course of the deposition, I<br/> 5 ask a question and you don't understand my<br/> 6 question, just let me know. I'll either repeat<br/> 7 the question or try and ask the question a<br/> 8 different way so it's not so confusing.<br/> 9 If, during the course of the deposition, you<br/> 10 just don't know or don't remember an answer, "I<br/> 11 don't know" or "I don't remember" is an acceptable<br/> 12 answer. I'd much rather you do that than try and<br/> 13 guess. Okay?<br/> 14 A. Okay.<br/> 15 Q. Ma'am, could you please state your full name<br/> 16 for the record?<br/> 17 A. Latoya Monique Corbitt.<br/> 18 Q. And are you currently employed?<br/> 19 A. No, sir.<br/> 20 Q. Ms. Corbitt, what is your home address?<br/> 21 A. P.O. Box 801, Fort Gaines, Georgia 39851.<br/> 22 Q. Is that your street address?<br/> 23 A. 310 Jackson Street.</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, ma'am.<br/> 2 A. Good afternoon.<br/> 3 Q. My name is Malcolm Gould. I'm an attorney<br/> 4 from the law firm of Pelino &amp; Lentz in<br/> 5 Philadelphia. I represent Equity Group Eufaula<br/> 6 Division, LLC, in a lawsuit filed in Federal Court<br/> 7 in the Middle District of Alabama. You are a<br/> 8 plaintiff in that lawsuit, and we're here today to<br/> 9 take your deposition.<br/> 10 Now, I'm going to give you a few ground<br/> 11 rules for the deposition that hopefully will make<br/> 12 it move more smoothly.<br/> 13 As you can see, we have a court reporter<br/> 14 here who is going to take down my questions and<br/> 15 your answers. For that reason, I'd ask that you<br/> 16 keep all of your answers verbal. Say yes or no<br/> 17 instead of nodding your head or shrugging your<br/> 18 shoulders or saying uh-huh or huh-uh. It will<br/> 19 make it easier for her to take down what your<br/> 20 answers to my questions are.<br/> 21 I'd also ask that you wait until I finish my<br/> 22 question before you give your answer. That will<br/> 23 make her job easier when we're not talking over</p> | <p style="text-align: right;">9</p> <p>1 Q. Ms. Corbitt, when was the last time you<br/> 2 worked at the chicken processing plant over in<br/> 3 Baker Hill?<br/> 4 A. It was '03 to '04.<br/> 5 Q. Do you remember when in 2004 you stopped<br/> 6 working at the plant?<br/> 7 A. In January.<br/> 8 MR. CAMP: When did Equity Group buy --<br/> 9 did you say March was when Equity bought CP?<br/> 10 MR. GOULD: It was in February.<br/> 11 February or March of 2004.<br/> 12 MR. CAMP: And Equity Group didn't take<br/> 13 on any of the liabilities of CP?<br/> 14 MR. GOULD: I'm not certain. I can't<br/> 15 testify as to that, if you're asking me to<br/> 16 testify.<br/> 17 MR. CAMP: Well, I'm just wondering if<br/> 18 Equity took over the liabilities or if it was an<br/> 19 asset transfer or what was the deal. Because<br/> 20 y'all have been asking questions about CP and then<br/> 21 questions about Equity Group, and so I'm wondering<br/> 22 what the relationship is there.<br/> 23 MR. GOULD: My understanding is that it</p>                |

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| <p style="text-align: right;">10</p> <p>1 was a simple asset purchase so liabilities were</p> <p>2 not transferred.</p> <p>3 To the extent that we're asking questions</p> <p>4 about CP, it is discovery. It may or may not lead</p> <p>5 to the discovery of admissible evidence, but what</p> <p>6 we can ask about in discovery may very well go</p> <p>7 beyond what --</p> <p>8 MR. CAMP: Sure. I'm not --</p> <p>9 MR. GOULD: -- any liability is.</p> <p>10 MR. CAMP: And I'm not disputing that.</p> <p>11 I was just wondering if you have seen the purchase</p> <p>12 agreement. Because we haven't had a copy of it.</p> <p>13 And y'all represented that y'all bought it and</p> <p>14 that there was no liability for CP. And I just</p> <p>15 want to make sure, since we've got plaintiffs here</p> <p>16 that worked for CP and possibly not for Equity.</p> <p>17 MR. GOULD: My understanding -- and I</p> <p>18 have not looked at the purchase agreement</p> <p>19 recently, however, I know it's an asset purchase</p> <p>20 agreement -- is that that there is no assumed</p> <p>21 liabilities before the closing date, unless they</p> <p>22 were ones that were specifically listed on some</p> <p>23 sort of schedule; which, once again, I cannot</p> | <p style="text-align: right;">12</p> <p>1 A. Uh-huh.</p> <p>2 Q. Yes?</p> <p>3 A. Yes, sir.</p> <p>4 Q. During the time that you worked at the</p> <p>5 plant, what's your understanding of the company,</p> <p>6 the name of the company that was employing you?</p> <p>7 A. Charoen Pokphand.</p> <p>8 Q. And at the time you stopped working at the</p> <p>9 plant, do you have an understanding of the name of</p> <p>10 the company that was employing you?</p> <p>11 A. Charoen Pokphand.</p> <p>12 Q. During the time that you worked at the</p> <p>13 plant, were you a member of the union?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you ever attend any union meetings while</p> <p>16 you were employed at the plant?</p> <p>17 A. No, sir.</p> <p>18 Q. During the time that you worked at the</p> <p>19 plant, at the time of the end of your employment,</p> <p>20 what department or position were you working in?</p> <p>21 A. In debone.</p> <p>22 Q. Were you working on the debone line?</p> <p>23 A. Yes, debone line.</p> |
| <p style="text-align: right;">11</p> <p>1 definitively answer one way or the other.</p> <p>2 MR. CAMP: Okay.</p> <p>3 MR. GOULD: I will tell you that I</p> <p>4 believe Ms. Corbitt did actually work at the plant</p> <p>5 past January of 2004.</p> <p>6 MR. CAMP: Okay. That's good.</p> <p>7 MR. GOULD: And I think even on her</p> <p>8 consent, she indicated that -- oh, no. On her</p> <p>9 consent she indicated that she worked through</p> <p>10 January of 2004.</p> <p>11 MR. CAMP: Do you have the record</p> <p>12 there? I mean, do you actually know the day she</p> <p>13 worked?</p> <p>14 MR. GOULD: According to our records,</p> <p>15 it looks like she worked there until May of 2004.</p> <p>16 That's, at least, when the termination was</p> <p>17 recorded. She may not have worked there after</p> <p>18 that date. Once again, I can't tell you one way</p> <p>19 or another what happened with that.</p> <p>20 MR. CAMP: Okay.</p> <p>21 (BY MR. GOULD)</p> <p>22 Q. But you were understanding that you did not</p> <p>23 work at the plant after January of 2004?</p>  | <p style="text-align: right;">13</p> <p>1 Q. Did you work on a debone line the entire</p> <p>2 time you were employed at the plant?</p> <p>3 A. Yes, sir.</p> <p>4 Q. How did you first learn about this lawsuit?</p> <p>5 A. Someone had told me that worked out here and</p> <p>6 gave me the number to call.</p> <p>7 Q. Do you remember who that was?</p> <p>8 A. No, sir.</p> <p>9 Q. So they gave you a phone number to call to</p> <p>10 sign up for the lawsuit?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And what is your understanding as to what</p> <p>13 your claims in this lawsuit are?</p> <p>14 A. To get all the hours that I worked from the</p> <p>15 time that I was there until the time I left.</p> <p>16 Q. When you stopped working at the plant in</p> <p>17 2004, did you quit or were you fired?</p> <p>18 A. I quit.</p> <p>19 Q. And what was the reason that you left the</p> <p>20 plant?</p> <p>21 A. For some CNA classes.</p> <p>22 Q. So you stopped your job to go to school?</p> <p>23 A. Yes, sir.</p>     |

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| <p style="text-align: right;">14</p> <p>1 Q. Since you became a plaintiff in this</p> <p>2 lawsuit, other than discussions with your</p> <p>3 attorney, have you discussed this lawsuit with</p> <p>4 anybody else?</p> <p>5 A. No.</p> <p>6 Q. Have you attended any group meetings where</p> <p>7 the lawsuit was discussed, once again, where your</p> <p>8 attorneys were not present?</p> <p>9 A. No.</p> <p>10 Q. Have you attended any group meetings at all</p> <p>11 where this lawsuit has been discussed?</p> <p>12 A. No.</p> <p>13 Q. In preparation for your deposition today,</p> <p>14 did you meet with your attorneys?</p> <p>15 A. Yes.</p> <p>16 Q. When did you meet with your attorneys?</p> <p>17 A. When I got here this morning.</p> <p>18 Q. Okay. Other than meeting with your</p> <p>19 attorneys today, did you meet with them any other</p> <p>20 time to prepare for your deposition?</p> <p>21 A. The other day.</p> <p>22 Q. Another day this week?</p> <p>23 A. Yes, sir.</p> | <p style="text-align: right;">16</p> <p>1 A. Yeah.</p> <p>2 Q. Was there anything else you can think of?</p> <p>3 A. No, sir.</p> <p>4 Q. Did you work one particular shift when you</p> <p>5 worked at the plant?</p> <p>6 A. Yes, sir. The third.</p> <p>7 Q. What time did that shift start?</p> <p>8 A. Eleven to seven.</p> <p>9 MR. CAMP: Can you give me one minute?</p> <p>10 MR. GOULD: Sure.</p> <p>11 (A brief recess was taken.)</p> <p>12 (BY MR. GOULD)</p> <p>13 Q. So 11 p.m. to 7 a.m.?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And was that the same shift you worked the</p> <p>16 entire time you worked at the plant?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And during the time that you worked at the</p> <p>19 plant, would you normally drive yourself to work?</p> <p>20 A. No. It was a van that picked up workers.</p> <p>21 Q. A van that was organized by the company?</p> <p>22 A. No.</p> <p>23 Q. Who was it organized by?</p>  |
| <p style="text-align: right;">15</p> <p>1 Q. Do you know whether there was anybody at the</p> <p>2 meeting the other day this week, other than your</p> <p>3 attorneys and plaintiffs in this lawsuit?</p> <p>4 A. No.</p> <p>5 Q. Did you bring anyone with you to the</p> <p>6 meeting?</p> <p>7 A. No.</p> <p>8 Q. During the time that you worked on the</p> <p>9 debone line, were there any items of clothing or</p> <p>10 equipment that you had to wear when you were out</p> <p>11 on the production floor?</p> <p>12 A. Yes.</p> <p>13 Q. What were those items?</p> <p>14 A. Hair net, earplugs, gloves, smock, boots,</p> <p>15 and the arm guard.</p> <p>16 Q. Did you have to wear an apron? A plastic</p> <p>17 apron?</p> <p>18 A. Yeah, the smock.</p> <p>19 Q. And did you also have to wear like a white</p> <p>20 cloth smock?</p> <p>21 A. Yes.</p> <p>22 Q. And did you have to wear blue plastic</p> <p>23 sleeves?</p>  | <p style="text-align: right;">17</p> <p>1 A. I forgot the people's name. I done forgot;</p> <p>2 it's been so long ago.</p> <p>3 Q. Did you pay to ride on the van?</p> <p>4 A. Yes.</p> <p>5 Q. When you would arrive at the plant, did you</p> <p>6 have to go through any sort of security?</p> <p>7 A. Just the gate and that was all.</p> <p>8 Q. So you would just have to drive past the</p> <p>9 gate at the guard shack on the driveway?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Was there any security that you had to clear</p> <p>12 inside the plant? Any sort of metal detectors or</p> <p>13 turnstiles?</p> <p>14 A. No, sir.</p> <p>15 Q. You could just walk into the door of the</p> <p>16 plant?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Can you describe for me what you would do</p> <p>19 when you first entered the plant?</p> <p>20 A. We'd get there, we'd get the supplies we</p> <p>21 needed, sit around in the break room, whatever;</p> <p>22 and when it's time to go to work, we would wash</p> <p>23 down and get dressed and have to be on the line by</p> |

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| <p style="text-align: right;">18</p> <p>1 the time it start running.</p> <p>2 Q. Okay. Let me try and break that down a</p> <p>3 little bit. During the time that you were working</p> <p>4 at the plant, could you wear your boots in from</p> <p>5 the parking lot?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And that was the same during the entire time</p> <p>8 you worked at the plant?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And would you normally wear your boots in?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And then you would enter into the plant</p> <p>13 through the plant doors into the building?</p> <p>14 A. Yes.</p> <p>15 Q. And what's the very next thing you would do?</p> <p>16 A. Just like I said, just get the equipment I</p> <p>17 needed, sit down, wait until it's time to go to</p> <p>18 work; and when it's time to go, wash down and get</p> <p>19 dressed for work and have to be ready and prepared</p> <p>20 to work by the time they start running the lines.</p> <p>21 Q. Now, you said you would pick up supplies; is</p> <p>22 that correct?</p> <p>23 A. Uh-huh.</p> | <p style="text-align: right;">20</p> <p>1 goes up under the blue.</p> <p>2 Q. Would you be able to wear them more than one</p> <p>3 day?</p> <p>4 A. Yes.</p> <p>5 Q. Would you take your cotton gloves home with</p> <p>6 you at the end of the day and wash them?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And with the rubber gloves, would you need</p> <p>9 to get new rubber gloves every day?</p> <p>10 A. Yes, sir.</p> <p>11 Q. So you would get new rubber gloves every</p> <p>12 single day?</p> <p>13 A. Yes.</p> <p>14 Q. And then after you got whatever supplies you</p> <p>15 needed, what would you do next?</p> <p>16 A. Like I said before --</p> <p>17 Q. Well, would you go into the break room?</p> <p>18 A. Yes.</p> <p>19 Q. And what would you do there?</p> <p>20 A. Wait until it was time to go to work.</p> <p>21 Q. Would you clock in at some point in time?</p> <p>22 A. Yes.</p> <p>23 Q. When would you clock in?</p>  |
| <p style="text-align: right;">19</p> <p>1 Q. Where would you get your supplies?</p> <p>2 A. From the supply room.</p> <p>3 Q. And what supplies would you get from there?</p> <p>4 A. Whatever we needed.</p> <p>5 Q. Were there things that you would have to get</p> <p>6 every day at the supply room?</p> <p>7 A. Yeah. Like hair nets and earplugs and</p> <p>8 stuff, and gloves.</p> <p>9 Q. Were you allowed to take your smocks home</p> <p>10 with you?</p> <p>11 A. Yes.</p> <p>12 Q. And were you responsible for washing your</p> <p>13 smock and bringing a smock with you when you</p> <p>14 reported to work?</p> <p>15 A. Uh-huh.</p> <p>16 Q. Is that a yes?</p> <p>17 A. Yes.</p> <p>18 Q. Now, in terms of gloves, what kind of gloves</p> <p>19 did you wear?</p> <p>20 A. I can't think of the name because it's been</p> <p>21 so long since I worked out there.</p> <p>22 Q. Were they rubber gloves?</p> <p>23 A. Yeah. Those, and the cotton gloves that</p>  | <p style="text-align: right;">21</p> <p>1 A. When I got there.</p> <p>2 Q. After you went to the supply desk?</p> <p>3 A. No, before.</p> <p>4 Q. So you would go to the break room first and</p> <p>5 clock in?</p> <p>6 A. Yes.</p> <p>7 Q. And then you would go to the supply desk?</p> <p>8 A. Yes.</p> <p>9 Q. All right. Then you would go back into the</p> <p>10 break room after going to the supply desk and you</p> <p>11 would sit and wait? Is that what you said you</p> <p>12 would do?</p> <p>13 A. It depends on how long the line is, because</p> <p>14 you have to wait.</p> <p>15 Q. The line where?</p> <p>16 A. At the supply room.</p> <p>17 Q. And at what time would you make your way to</p> <p>18 the production floor?</p> <p>19 A. Before 11, before it's time to go to work.</p> <p>20 Q. Would there be a particular time you would</p> <p>21 normally leave the break room?</p> <p>22 A. About five minutes 'til, so you can go on</p> <p>23 and get set up and stuff.</p> |

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| <p style="text-align: right;">22</p> <p>1 Q. And as you were sitting in the break room,</p> <p>2 what items would you be wearing, if any?</p> <p>3 A. Just the hair net and the earplugs.</p> <p>4 Q. And your boots?</p> <p>5 A. Yeah and the boots.</p> <p>6 Q. All right. After you left the break room</p> <p>7 and made your way towards the production floor,</p> <p>8 what would you do next?</p> <p>9 A. Just like I said, just wait until it feels</p> <p>10 time to go to work. That's all.</p> <p>11 Q. I asked you what you would do when you left</p> <p>12 the break room and would walk through the</p> <p>13 production doors.</p> <p>14 A. Get set up, washed down and all that, and</p> <p>15 just get prepared. Put on your PPE and just go to</p> <p>16 work.</p> <p>17 Q. Approximately how long would it take you</p> <p>18 from the time you walk through the production</p> <p>19 doors to the time you got to your place on the</p> <p>20 line?</p> <p>21 A. I'm not for sure.</p> <p>22 Q. Were you normally at your spot on the line</p> <p>23 in time for when the line started?</p> | <p style="text-align: right;">24</p> <p>1 Q. So once the chicken passed whatever position</p> <p>2 you were at on the line, you could then leave?</p> <p>3 A. Yes.</p> <p>4 Q. And what would you do after the chicken</p> <p>5 passed your position on the line?</p> <p>6 A. Go wash down and hang up all the equipment</p> <p>7 and go to the break room.</p> <p>8 Q. Now, approximately how long would it take</p> <p>9 you from the time that the last bird passed you on</p> <p>10 the line until the time that you were able to go</p> <p>11 out to the hallway and go into the break room?</p> <p>12 A. Say about seven, eight minutes.</p> <p>13 Q. Once you passed through the doors of the</p> <p>14 production area, would you normally go into the</p> <p>15 break room?</p> <p>16 A. No. I'd get supplies I needed, if I needed</p> <p>17 any.</p> <p>18 Q. During your break?</p> <p>19 A. No.</p> <p>20 Q. That's what I'm talking about here. I asked</p> <p>21 you what you would do before you left for break.</p> <p>22 After you did those things you mentioned,</p> <p>23 what would you do next?</p> |
| <p style="text-align: right;">23</p> <p>1 A. Yes.</p> <p>2 Q. And you normally left the break room around</p> <p>3 five minutes before 11; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Did you get any breaks during the time that</p> <p>6 you were employed at the plant?</p> <p>7 A. Yes.</p> <p>8 Q. And how many breaks would you get in a</p> <p>9 normal day?</p> <p>10 A. Two.</p> <p>11 Q. And how long were the breaks?</p> <p>12 A. 15- and a 30-minute break.</p> <p>13 Q. Do you know whether those breaks were paid</p> <p>14 or unpaid?</p> <p>15 A. Unpaid.</p> <p>16 Q. And did your 15-minute break come first and</p> <p>17 then your 30-minute break came after that?</p> <p>18 A. Yes.</p> <p>19 Q. How would you know when it was time for you</p> <p>20 to leave the line for your 15-minute break?</p> <p>21 A. Everybody would start leaving. And we'll</p> <p>22 have to wait until the chickens come down the</p> <p>23 line, and we'll be able to leave.</p>   | <p style="text-align: right;">25</p> <p>1 A. Just sit down for a break until it was time</p> <p>2 to go back.</p> <p>3 Q. All right. Now, for your 15-minute break,</p> <p>4 how long would you normally sit down in the break</p> <p>5 room?</p> <p>6 A. Probably a good five minutes.</p> <p>7 Q. How would you know when it was time to</p> <p>8 return from break?</p> <p>9 A. Everybody would start getting up and going</p> <p>10 back to work.</p> <p>11 Q. Can you describe for me what you would do</p> <p>12 when you returned from break?</p> <p>13 A. Go back, wash down, put on the equipment,</p> <p>14 and have to be back on the line before it started</p> <p>15 back up. That's all.</p> <p>16 Q. So can you estimate how long it would take</p> <p>17 you to do all those things from the time that you</p> <p>18 entered the production doors until the time that</p> <p>19 you got back on the line?</p> <p>20 A. No.</p> <p>21 Q. So you're not sure how long it took you to</p> <p>22 come back from break and get onto the line?</p> <p>23 A. No.</p>  |

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| <p style="text-align: right;">26</p> <p>1 Q. And would that also be true for your second</p> <p>2 break, your 30-minute break? You're not sure how</p> <p>3 long it would take you to get back from the break</p> <p>4 room onto your position on the line?</p> <p>5 A. No, sir.</p> <p>6 Q. No, you're not sure or no, that's not true?</p> <p>7 A. I'm not sure.</p> <p>8 Q. What about leaving for break for your second</p> <p>9 break? Were the things you would do leaving for</p> <p>10 your second break be the same things you would do</p> <p>11 leaving for your first break?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And the amount of time it would take, was it</p> <p>14 the same?</p> <p>15 A. No.</p> <p>16 Q. It would take a different amount of time</p> <p>17 leaving for your second break than it would</p> <p>18 leaving for your first break?</p> <p>19 A. Yeah.</p> <p>20 Q. Can you explain to me what you would do when</p> <p>21 you were leaving for your second break?</p> <p>22 A. I would just have to wait until the chickens</p> <p>23 come down and then leave and just go on to break.</p>                                    | <p style="text-align: right;">28</p> <p>1 A. Yes.</p> <p>2 Q. Then when you returned from your first break</p> <p>3 would you go to your same position?</p> <p>4 A. Yes.</p> <p>5 Q. And would you still be at that same position</p> <p>6 when you left for your second break?</p> <p>7 A. Yes.</p> <p>8 Q. And when you returned from your second break</p> <p>9 would you go to the same position or a different</p> <p>10 position?</p> <p>11 A. The same.</p> <p>12 Q. So during the course of a day you would stay</p> <p>13 at the same position the entire day?</p> <p>14 A. Yeah, just about.</p> <p>15 Q. Did your shift have a scheduled end time?</p> <p>16 A. What you mean by that, sir?</p> <p>17 Q. Would your shift normally end at the same</p> <p>18 time every day?</p> <p>19 A. Yes.</p> <p>20 Q. And the same as when you were leaving for</p> <p>21 breaks, you could leave at the end of your shift</p> <p>22 once the chicken reached your spot on the line?</p> <p>23 A. Yes.</p> |
| <p style="text-align: right;">27</p> <p>1 Q. When you left the line, your position on the</p> <p>2 line, what would you do next? What's the next</p> <p>3 step you would take?</p> <p>4 A. I would wash down, take my supplies off, and</p> <p>5 go and sit down and try to eat. That's all.</p> <p>6 Q. Approximately how long would it take you</p> <p>7 from the time you left your spot on the line until</p> <p>8 the time you left the production doors?</p> <p>9 A. I don't know. I'm not for sure.</p> <p>10 Q. During the time you were working on the</p> <p>11 debone line, would you rotate between different</p> <p>12 positions?</p> <p>13 A. Sometimes.</p> <p>14 Q. And when would you rotate?</p> <p>15 A. Not very often.</p> <p>16 Q. Would you normally go to a different</p> <p>17 position when you returned from a break?</p> <p>18 A. No. I always be at my same spot at the end.</p> <p>19 Q. So you would report to one position on the</p> <p>20 line at the start of your shift; is that correct?</p> <p>21 A. Uh-huh.</p> <p>22 Q. Then would you still be at the same position</p> <p>23 when you left for your first break?</p> | <p style="text-align: right;">29</p> <p>1 Q. Can you describe for me what you would do at</p> <p>2 the end of your shift, before you left the</p> <p>3 production floor?</p> <p>4 A. Wait for the chicken to come down and leave,</p> <p>5 go up, wash down, and just leave out. That's all.</p> <p>6 Q. So you would rinse or wash off your apron</p> <p>7 and gloves and sleeves; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And then you would take your items off; is</p> <p>10 that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Would your boots still be on?</p> <p>13 A. Yes.</p> <p>14 Q. And you would take off those items and you</p> <p>15 would exit the floor?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And then would you go someplace to clock</p> <p>18 out?</p> <p>19 A. Yes, sir. To the break room.</p> <p>20 Q. And would you wear your boots home?</p> <p>21 A. Yes.</p> <p>22 Q. Do you have an idea as to how long it would</p> <p>23 take you from the time you left your spot on the</p>  |

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| <p>30</p> <p>1 line to the time you exited the production floor?</p> <p>2 A. No.</p> <p>3 Q. Those are all the questions I have.</p> <p>4 BY MR. CAMP:</p> <p>5 Q. Do you know if you've ever received a</p> <p>6 paycheck from Equity Group?</p> <p>7 A. No, sir.</p> <p>8 Q. No, you've never received one or no, you</p> <p>9 don't know?</p> <p>10 A. I never have.</p> <p>11 Q. That's it.</p> <p>12 MR. GOULD: I have no other questions.</p> <p>13</p> <p>14 (The deposition was concluded.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |  |
| <p>31</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 BARBOUR COUNTY</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription, and that the foregoing represents</p> <p>11 a true and correct transcript of the testimony</p> <p>12 given by said witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor kin to the parties to the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18</p> <p>19 CYNTHIA M. NOAKES, Commissioner</p> <p>20 Certified Court Reporter,</p> <p>21 ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23 Commission Expires 07/08/2009</p> |  |

**TAB 13**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,

Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,

Defendant.

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DEPOSITION OF BARBARA ANN DARBY,  
taken pursuant to notice and  
stipulation on behalf of the Defendant,  
at Williams, Pothoff, Williams & Smith,  
125 South Orange Avenue, Eufaula,  
Alabama, before Bridgette Mitchell,  
Shorthand Reporter and Notary Public in  
and for the State of Alabama at Large,  
on May 21, 2008, commencing at  
11:12 a.m.

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| <p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Carl E. Underwood, III, Esquire</p> <p>5 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>6 163 W. Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 M. John Steensland, III, Esquire</p> <p>10 PARKMAN, ADAMS &amp; WHITE</p> <p>11 739 West Main Street</p> <p>12 Dothan, Alabama 36301</p> <p>13</p> <p>14 FOR THE DEFENDANT:</p> <p>15 Gary D. Fry, Esquire</p> <p>16 PELINO &amp; LENTZ</p> <p>17 One Liberty Place</p> <p>18 Thirty-second Floor</p> <p>19 Philadelphia, Pennsylvania 19103</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 BARBARA ANN DARBY is hereby waived and</p> <p>6 that said deposition may be introduced</p> <p>7 at the trial of this case or used in</p> <p>8 any other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of BARBARA ANN DARBY is</p> <p>6 taken pursuant to notice and</p> <p>7 stipulation on behalf of the Defendant;</p> <p>8 that all formalities with respect to</p> <p>9 procedural requirements are waived;</p> <p>10 that said deposition may be taken</p> <p>11 before Bridgette Mitchell, Shorthand</p> <p>12 Reporter and Notary Public in and for</p> <p>13 the State of Alabama at Large, without</p> <p>14 the formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p style="text-align: right;">5</p> <p>1 BARBARA ANN DARBY, having first</p> <p>2 been duly sworn or affirmed to speak</p> <p>3 the truth, the whole truth, and nothing</p> <p>4 but the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Good morning, Ms. Darby. I just</p> <p>8 introduced myself to you, but, again,</p> <p>9 my name is Gary Fry and I'm one of the</p> <p>10 lawyers representing Equity Group</p> <p>11 Eufaula, the folks that operate the</p> <p>12 plant out in Baker Hill.</p> <p>13 A. Yes, sir.</p> <p>14 Q. And we have asked you here today to put</p> <p>15 some questions to you concerning a</p> <p>16 lawsuit which you and some other folks</p> <p>17 have brought against the company. Have</p> <p>18 you ever been deposed before?</p> <p>19 A. No, sir.</p> <p>20 Q. It's fairly painless. I will be asking</p> <p>21 the questions and you will be giving me</p> <p>22 your answers. Bridgette, our court</p> <p>23 reporter, will be taking down my</p> |



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| <p>6</p> <p>1 questions and your answers. If you</p> <p>2 don't understand one of my questions or</p> <p>3 you don't hear it, let me know and I'll</p> <p>4 repeat it or rephrase it so that you</p> <p>5 will understand it. Okay?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And the only other thing I would ask is</p> <p>8 that we don't talk over each other at</p> <p>9 the same time, because she can only</p> <p>10 take us down one at a time. And I</p> <p>11 would ask that any answer that you give</p> <p>12 be verbal, because she can't record a</p> <p>13 nod or the shake of the head. Okay?</p> <p>14 A. Okay.</p> <p>15 Q. What's your home address?</p> <p>16 A. 14 Cedar Street, Apartment 403,</p> <p>17 Clayton, Alabama.</p> <p>18 Q. What is your date of birth?</p> <p>19 A. 9/22/1958.</p> <p>20 Q. Are you currently employed?</p> <p>21 A. Yes, I am.</p> <p>22 Q. And by whom?</p> <p>23 A. Equity.</p> | <p>8</p> <p>1 Q. Okay. Let's -- have you worked other</p> <p>2 jobs at the facility?</p> <p>3 A. Yes, I have.</p> <p>4 Q. Can you describe for me what other jobs</p> <p>5 you've worked there? And if you can,</p> <p>6 tell me at the time who owned the</p> <p>7 plant, CP or Equity.</p> <p>8 A. Can you rephrase your -- can you -- I</p> <p>9 don't really understand what you're</p> <p>10 saying.</p> <p>11 Q. Okay. Sure. Let's go back to the CP</p> <p>12 period.</p> <p>13 A. Okay.</p> <p>14 Q. When you first started working for CP</p> <p>15 in July of 2000, what did you do?</p> <p>16 A. QA.</p> <p>17 Q. Quality assurance?</p> <p>18 A. Yes.</p> <p>19 Q. How long did you work in QA for CP?</p> <p>20 A. Until --</p> <p>21 Q. Pardon?</p> <p>22 A. Until the -- until the company changed</p> <p>23 hands.</p>   |
| <p>7</p> <p>1 Q. How long have you been employed by</p> <p>2 Equity?</p> <p>3 A. Since the company took over Charoen.</p> <p>4 Q. Okay. So Charoen -- I'm going to refer</p> <p>5 to Charoen as CP.</p> <p>6 A. Okay.</p> <p>7 Q. Is that okay?</p> <p>8 A. Okay.</p> <p>9 Q. So you worked for Charoen, or CP --</p> <p>10 A. Yes.</p> <p>11 Q. -- before? And then when Equity took</p> <p>12 over, you stayed?</p> <p>13 A. Yes.</p> <p>14 Q. When did you first start working at the</p> <p>15 Baker Hill plant?</p> <p>16 A. July 31, 2000.</p> <p>17 Q. And have you worked continuously at</p> <p>18 that location since then?</p> <p>19 A. Yes.</p> <p>20 Q. What's your current job at Equity?</p> <p>21 A. Line leader in evisceration.</p> <p>22 Q. How long have you had that position?</p> <p>23 A. I don't really know.</p>   | <p>9</p> <p>1 Q. Okay. So the whole time you were</p> <p>2 working for CP, you worked in QA?</p> <p>3 A. Yes.</p> <p>4 Q. And when Equity took over, did you</p> <p>5 continue in quality assurance?</p> <p>6 A. No.</p> <p>7 Q. What was the first job you had once</p> <p>8 Equity took over?</p> <p>9 A. USDA helper.</p> <p>10 Q. And how long did you work as a USDA</p> <p>11 helper?</p> <p>12 A. Until I became line leader.</p> <p>13 Q. Okay. And you don't know how long that</p> <p>14 was?</p> <p>15 (No immediate response given.)</p> <p>16 Q. Okay. That's --</p> <p>17 A. No, I'm not -- I'm not positive.</p> <p>18 Q. Sure. Throughout this -- the whole</p> <p>19 time that you've worked at the plant,</p> <p>20 no matter who owned it, you worked in</p> <p>21 the evisceration department?</p> <p>22 A. Before I worked at the cook plant, then</p> <p>23 I came to the raw plant.</p> |

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| <p style="text-align: right;">10</p> <p>1 Q. When you worked for quality assurance,</p> <p>2 you were in the cook plant?</p> <p>3 A. Cook plant.</p> <p>4 Q. Okay. But after -- when you became a</p> <p>5 USDA helper, you were in the</p> <p>6 evisceration department?</p> <p>7 A. Yes, I was.</p> <p>8 Q. All of my questions are going to be</p> <p>9 directed for the time period when you</p> <p>10 were working for Equity and you were</p> <p>11 working in the evisceration department.</p> <p>12 Okay?</p> <p>13 A. Yes, sir.</p> <p>14 Q. What shift or shifts have you worked?</p> <p>15 A. Second.</p> <p>16 Q. You've worked the second shift your</p> <p>17 whole time?</p> <p>18 A. That's it.</p> <p>19 Q. And what are the hours of the second</p> <p>20 shift?</p> <p>21 A. Three to twelve or three to whenever.</p> <p>22 Q. Three p.m.?</p> <p>23 A. Three p.m. to 12a or whenever.</p>  | <p style="text-align: right;">12</p> <p>1 Q. Who was your supervisor when you were a</p> <p>2 USDA helper?</p> <p>3 A. Johnny Moore.</p> <p>4 Q. And once you became a line leader,</p> <p>5 who's your supervisor?</p> <p>6 A. Johnny Moore was my line leader. He's</p> <p>7 no longer there. Leon Bowen -- Bowen</p> <p>8 is my line leader now.</p> <p>9 Q. Goldman?</p> <p>10 A. B-O-W-E-N, Bowen.</p> <p>11 Q. Bowen. When you were a USDA helper, do</p> <p>12 you recall what your hourly rate of pay</p> <p>13 was?</p> <p>14 A. Sir, it -- it varied from year to year.</p> <p>15 Q. If you don't recall, that's fine.</p> <p>16 A. I mean, the question is vague because</p> <p>17 you're not saying it when I started or</p> <p>18 you're saying when I completed.</p> <p>19 Q. What was it when you started?</p> <p>20 A. Oh, when I started it was 8.25.</p> <p>21 Q. And when you finished being a USDA</p> <p>22 trimmer, what was it?</p> <p>23 A. Nine sixty-five.</p> |
| <p style="text-align: right;">11</p> <p>1 Q. To midnight or whenever?</p> <p>2 A. Yes.</p> <p>3 Q. And that was the only shift you have</p> <p>4 ever worked?</p> <p>5 A. In evisceration, yes.</p> <p>6 Q. What did you do as a USDA helper?</p> <p>7 A. The job is to mark the birds that the</p> <p>8 USDA deems air sack, IP, throw away</p> <p>9 birds, contaminated or condemned, mark</p> <p>10 legs. That's about it.</p> <p>11 Q. So basically you -- you mark and</p> <p>12 dispose of the bad birds as identified</p> <p>13 by the USDA representatives?</p> <p>14 A. Yes.</p> <p>15 Q. What do you do in your current job as a</p> <p>16 line leader?</p> <p>17 A. I supervise the other USDA trimmers</p> <p>18 that's on the line, making the schedule</p> <p>19 as to the rotation, giving bathroom</p> <p>20 breaks, filling in in positions when we</p> <p>21 have nobody to fill in that position,</p> <p>22 making sure our area is clean and taken</p> <p>23 care of.</p> | <p style="text-align: right;">13</p> <p>1 Q. And when you started as a line leader,</p> <p>2 what was your hourly rate?</p> <p>3 A. It's 10.85.</p> <p>4 Q. And has it remained the same since or</p> <p>5 has it gone up?</p> <p>6 A. I guess the same.</p> <p>7 Q. So you're making -- currently, you're</p> <p>8 making 10.85 an hour?</p> <p>9 A. Yes.</p> <p>10 Q. Now, just to make sure, you've never</p> <p>11 worked any other jobs for Equity other</p> <p>12 than what you've described for me;</p> <p>13 correct?</p> <p>14 A. Just in evisceration.</p> <p>15 Q. Just those jobs you've just described</p> <p>16 for me, those are the only jobs --</p> <p>17 A. I mean, we do a rotation, so the other</p> <p>18 jobs in that rotation I've done.</p> <p>19 Q. Sure.</p> <p>20 A. You know, but -- but besides on the</p> <p>21 line and the line leader, that's it,</p> <p>22 sir.</p> <p>23 Q. Now, you are a plaintiff in this</p>                                      |

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| <p style="text-align: right;">14</p> <p>1 action; correct? You're in the</p> <p>2 lawsuit; you're a party in the lawsuit.</p> <p>3 A. Yes, sir.</p> <p>4 Q. How did you come to learn about this</p> <p>5 case?</p> <p>6 (No immediate response given.)</p> <p>7 Q. How did you find out about it?</p> <p>8 A. I don't really remember. I really</p> <p>9 don't. I don't really remember.</p> <p>10 Q. Do you have an understanding as to what</p> <p>11 your claim is?</p> <p>12 A. Sir, if -- for my layman's, it's that</p> <p>13 my overtime -- I've not been paid my</p> <p>14 proper overtime hours or for my proper</p> <p>15 hours. From my limited knowledge,</p> <p>16 that's what I feel like.</p> <p>17 Q. What overtime work have you -- did</p> <p>18 you -- have you not been paid for?</p> <p>19 A. We are paid from three o'clock till the</p> <p>20 time that evis is finished, but we're</p> <p>21 not paid before because we have to put</p> <p>22 on our PPEs, we have to get our</p> <p>23 supplies. We've not been paid for that</p> | <p style="text-align: right;">16</p> <p>1 there.</p> <p>2 Q. Were you given an opportunity to join</p> <p>3 the union?</p> <p>4 A. Yes, sir, I was.</p> <p>5 Q. And you turned it down?</p> <p>6 A. Yes, sir.</p> <p>7 Q. So I take it you've never attended any</p> <p>8 union meetings?</p> <p>9 A. No, sir.</p> <p>10 Q. Did you review any papers before you</p> <p>11 came here today in preparation for this</p> <p>12 deposition?</p> <p>13 A. No, sir.</p> <p>14 Q. Besides your lawyers, did you talk with</p> <p>15 anybody about coming here today?</p> <p>16 A. No.</p> <p>17 Q. When you were a USDA helper, what items</p> <p>18 of PPE did you wear on a daily basis?</p> <p>19 A. Hair net, earplugs, arm guard, gloves,</p> <p>20 apron, smock, boots, and goggles, which</p> <p>21 are no longer worn.</p> <p>22 Q. Anything else?</p> <p>23 A. No, sir.</p>   |
| <p style="text-align: right;">15</p> <p>1 time which, you know ...</p> <p>2 Q. What's PPEs?</p> <p>3 A. Personal protection equipment.</p> <p>4 Q. And what supplies do you have to get</p> <p>5 that you're not paid for?</p> <p>6 A. The personal protective equipment --</p> <p>7 hair nets, earplugs, smocks, gloves,</p> <p>8 liners, aprons.</p> <p>9 Q. Have you ever been involved in any</p> <p>10 other lawsuits against any employers?</p> <p>11 A. No, sir.</p> <p>12 Q. Are you a member of the union?</p> <p>13 A. No, sir.</p> <p>14 Q. Have you ever been a member of the</p> <p>15 union at the Baker Hill plant?</p> <p>16 A. No, sir.</p> <p>17 Q. Are you aware that production employees</p> <p>18 are represented by a union in that</p> <p>19 plant?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And what do you know about that?</p> <p>22 A. I know that the union is supposed to</p> <p>23 represent the rights of the employees</p>  | <p style="text-align: right;">17</p> <p>1 Q. Hair net, earplugs, arm guards, gloves,</p> <p>2 apron, smock, boots, and goggles.</p> <p>3 That's it?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Which of those items, to your</p> <p>6 understanding, were you required to</p> <p>7 wear when you were a USDA trimmer?</p> <p>8 A. All of them.</p> <p>9 Q. And how did you learn that you were</p> <p>10 required to wear all of them? Who told</p> <p>11 you?</p> <p>12 A. Supervisor.</p> <p>13 Q. When you became a line leader, did you</p> <p>14 have to wear the same things?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Every single one of them?</p> <p>17 A. Yes, sir.</p> <p>18 Q. From what you were able to observe in</p> <p>19 the evisceration department, did all</p> <p>20 the employees at that -- in that</p> <p>21 production floor wear all of these</p> <p>22 items?</p> <p>23 A. I really -- I -- sir, I really can't</p> |

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| <p style="text-align: right;">18</p> <p>1 tell you that. I -- I really can't.</p> <p>2 There are different positions in that</p> <p>3 area. You have floor people. You have</p> <p>4 rehangers. You have salvage workers.</p> <p>5 So some might wear more, some might</p> <p>6 wear less.</p> <p>7 Q. From what you were able to observe, do</p> <p>8 those employees that don't work with</p> <p>9 knives have to wear, say, the arm --</p> <p>10 plastic arm guards?</p> <p>11 A. No, sir.</p> <p>12 Q. Are you aware of any instance where an</p> <p>13 employee was disciplined for not</p> <p>14 wearing the proper item of PPE?</p> <p>15 A. Sir, I really can't say.</p> <p>16 Q. You don't know?</p> <p>17 A. I really can't say. No, I really -- I</p> <p>18 really can't say.</p> <p>19 Q. When you were working as a USDA</p> <p>20 trimmer, did you work with a knife?</p> <p>21 A. Yes, sir.</p> <p>22 Q. All the time?</p> <p>23 A. Yes, sir.</p> | <p style="text-align: right;">20</p> <p>1 privately?</p> <p>2 A. No, sir.</p> <p>3 Q. That's your understanding?</p> <p>4 A. That's my understanding.</p> <p>5 Q. Which of these items that you've</p> <p>6 identified for me do you pick up on a</p> <p>7 daily basis?</p> <p>8 A. Gloves.</p> <p>9 Q. Anything else?</p> <p>10 A. Hair net, smock.</p> <p>11 Q. That's it?</p> <p>12 A. (Witness nods head.)</p> <p>13 Q. So on a daily basis, you get new gloves</p> <p>14 and a new hair net and a new smock?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And how long has that been your</p> <p>17 experience at this plant? How long</p> <p>18 have you been picking that stuff up</p> <p>19 daily?</p> <p>20 A. Since I came to the plant.</p> <p>21 Q. Since you came -- even before -- even</p> <p>22 when it was CP?</p> <p>23 A. Yes, sir.</p>   |
| <p style="text-align: right;">19</p> <p>1 Q. And when you became a line leader and</p> <p>2 continuing to the present, do you work</p> <p>3 with a knife?</p> <p>4 A. Yes, sir, I do.</p> <p>5 Q. All the time?</p> <p>6 A. Not all the time.</p> <p>7 Q. What portion of your job does not</p> <p>8 require the use of a knife?</p> <p>9 A. My paperwork.</p> <p>10 Q. Which of these items that you have</p> <p>11 identified for me of PPE are issued to</p> <p>12 you by Equity?</p> <p>13 A. All.</p> <p>14 Q. All of them?</p> <p>15 A. (Witness nods head.)</p> <p>16 Q. Even the boots?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Is it your understanding that you are</p> <p>19 required to use the boots that Equity</p> <p>20 gives you?</p> <p>21 A. Yes.</p> <p>22 Q. You can't wear your boots from home,</p> <p>23 any -- any boots that you buy</p>   | <p style="text-align: right;">21</p> <p>1 Q. Is it your understanding that all the</p> <p>2 other employees in evis pick up these</p> <p>3 same three items on a daily basis?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Were you ever told that you were</p> <p>6 required to take your smock home at the</p> <p>7 end of the day and wash it?</p> <p>8 A. Not from Equity. But when it was CP,</p> <p>9 we were issued three smocks and it was</p> <p>10 our responsibility to keep them clean.</p> <p>11 Q. But once it became Equity, you got a</p> <p>12 new smock every day?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Where do you pick up your gloves, your</p> <p>15 hair net, and your smock?</p> <p>16 A. At the supply window.</p> <p>17 Q. And you do that first thing in the</p> <p>18 morning?</p> <p>19 A. No. I work -- I work -- I work 3p.</p> <p>20 Q. You do that in the afternoon when you</p> <p>21 get to work?</p> <p>22 A. Yes, sir.</p> <p>23 Q. What items are you permitted to wear</p> |

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| <p style="text-align: right;">22</p> <p>1 from home, if any?</p> <p>2 A. You're permitted to wear the boots now</p> <p>3 from home, but that -- that has changed</p> <p>4 twice. But no other items can go</p> <p>5 outside the plant.</p> <p>6 Q. You say it's changed twice. Can you</p> <p>7 explain that to me?</p> <p>8 A. You -- when they first came, you were</p> <p>9 allowed to wear your boots outside.</p> <p>10 Q. That's Equity?</p> <p>11 A. Equity.</p> <p>12 Q. When Equity first came?</p> <p>13 A. Right. You were allowed to wear your</p> <p>14 boots outside. Then they changed it to</p> <p>15 you had to remove your boots before you</p> <p>16 went outside. But since they put the</p> <p>17 sanitizers in, you are now able to wear</p> <p>18 them outside again.</p> <p>19 Q. And the sanitizers are located in that</p> <p>20 little room before you enter the</p> <p>21 production area; is that correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And when did they put the sanitizers</p> | <p style="text-align: right;">24</p> <p>1 Q. You use the hard plastic arm guards?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Do some people use plastic sleeves?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And is that pretty much left up to you,</p> <p>6 whether you put on the plastic sleeves?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Some employees wear plastic sleeves,</p> <p>9 some don't?</p> <p>10 A. Yes, sir.</p> <p>11 Q. When you arrive for work in the -- in</p> <p>12 the afternoon to start your shift,</p> <p>13 where do you put on each of these items</p> <p>14 of clothing? Your boots you already</p> <p>15 have on; correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Where do you put on the smock?</p> <p>18 A. On the production floor.</p> <p>19 Q. What about your gloves?</p> <p>20 A. On the production floor.</p> <p>21 Q. The apron?</p> <p>22 A. On the production floor.</p> <p>23 Q. Your arm guards?</p>   |
| <p style="text-align: right;">23</p> <p>1 in?</p> <p>2 A. I'm not quite sure when they put them</p> <p>3 in. I'm not sure.</p> <p>4 Q. Has it been over a year?</p> <p>5 A. Yes.</p> <p>6 Q. Has it been two years?</p> <p>7 A. I'm not quite sure.</p> <p>8 Q. The items that you don't pick up on a</p> <p>9 daily basis and that you don't take</p> <p>10 home, what do you do with them when</p> <p>11 you're not --</p> <p>12 A. You're issued a locker.</p> <p>13 Q. And what do you keep in your locker?</p> <p>14 A. You -- your arm guard, you know, some</p> <p>15 of your -- your personal items, if you</p> <p>16 have them, your apron. That's about</p> <p>17 it.</p> <p>18 Q. Plastic sleeves?</p> <p>19 A. If you use them. But the arm guard --</p> <p>20 we don't use the plastic sleeves. We</p> <p>21 use an arm guard.</p> <p>22 Q. Oh, you don't use the plastic sleeves?</p> <p>23 A. No, sir. I said the arm guard.</p>  | <p style="text-align: right;">25</p> <p>1 A. On the production floor.</p> <p>2 Q. Do you put anything else on when -- on</p> <p>3 the production floor besides the</p> <p>4 smocks, gloves, apron, and arm guards?</p> <p>5 A. Safety glasses when we had to wear</p> <p>6 them. Nothing else.</p> <p>7 Q. Your hair net and your ear</p> <p>8 protection --</p> <p>9 A. -- Go on before you enter production.</p> <p>10 Q. You put those on in the break room</p> <p>11 before you come in?</p> <p>12 A. In the break room or in the hallway.</p> <p>13 Q. And I take it that since you put</p> <p>14 this -- these items on on the</p> <p>15 production floor, the time you put them</p> <p>16 on is not until you actually enter the</p> <p>17 production floor for the start of the</p> <p>18 work; is that correct?</p> <p>19 A. Sir, the start of the work is when you</p> <p>20 get on the line.</p> <p>21 Q. Right. But you don't enter the</p> <p>22 production floor until it's time or</p> <p>23 almost time to get on the line;</p> |



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| <p style="text-align: right;">26</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. I mean, you don't go into the</p> <p>4 production floor and put these items on</p> <p>5 and then leave?</p> <p>6 A. No, sir.</p> <p>7 Q. You're not allowed to do that, are you?</p> <p>8 A. No, sir.</p> <p>9 Q. In fact, you're not allowed at all, am</p> <p>10 I right, to wear your smock, your</p> <p>11 apron, and those things outside the</p> <p>12 production floor?</p> <p>13 A. No, sir.</p> <p>14 Q. That's prohibited; correct?</p> <p>15 A. Right.</p> <p>16 Q. And I think you told me you use a</p> <p>17 knife?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Do you use scissors?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And what do you use these items for?</p> <p>22 A. Cutting the chickens, cutting the legs,</p> <p>23 opening a chicken if they're not open.</p>  | <p style="text-align: right;">28</p> <p>1 Q. Do you use any other tools or</p> <p>2 equipment?</p> <p>3 A. A hose.</p> <p>4 Q. Okay. So I think you told me that your</p> <p>5 shift starts at three o'clock.</p> <p>6 A. Yes, sir.</p> <p>7 Q. And is it your understanding that you</p> <p>8 are required to be on the production</p> <p>9 floor at three o'clock?</p> <p>10 A. You're supposed -- excuse me. You're</p> <p>11 to be in your work area, your</p> <p>12 workstation, at your workstation, at</p> <p>13 three o'clock.</p> <p>14 Q. Ready to go?</p> <p>15 A. Ready to go.</p> <p>16 Q. How many minutes before three o'clock</p> <p>17 do you enter the production floor?</p> <p>18 A. Ten.</p> <p>19 Q. How do you know it's ten?</p> <p>20 A. Because my -- my -- as a line leader,</p> <p>21 I'm required to be there before the</p> <p>22 others --</p> <p>23 (Phone interruption)</p>   |
| <p style="text-align: right;">27</p> <p>1 Q. When you were a USDA helper, what did</p> <p>2 you -- what was your responsibility for</p> <p>3 cutting?</p> <p>4 A. The -- marking the legs, marking the</p> <p>5 birds that are going to salvage.</p> <p>6 Q. And you -- you cut them to mark them?</p> <p>7 A. Yes. Down the front, down the back,</p> <p>8 and across the back.</p> <p>9 Q. How do you get the knife and the</p> <p>10 scissors that you use?</p> <p>11 A. The line leaders put them on the line.</p> <p>12 We get them from the tool room.</p> <p>13 Q. So you're responsible as a line leader</p> <p>14 to get them for the other employees?</p> <p>15 A. I'm -- it's one of -- one of the -- I'm</p> <p>16 one of the ones responsible for it.</p> <p>17 Q. When you were a USDA trimmer, how would</p> <p>18 you get the knife and the scissors?</p> <p>19 A. They would already be on the same</p> <p>20 counter.</p> <p>21 Q. And you didn't have to go get them when</p> <p>22 you were a trimmer?</p> <p>23 A. No, sir.</p> | <p style="text-align: right;">29</p> <p>1 A. I'm required to be there before the</p> <p>2 people on the line so that I can go get</p> <p>3 the tools, get the clipboards and</p> <p>4 everything. It -- it takes me -- by my</p> <p>5 watch, takes me that long to get myself</p> <p>6 together to come in.</p> <p>7 Q. Okay. So you go on ten minutes</p> <p>8 beforehand to -- to get the equipment</p> <p>9 for the other folks?</p> <p>10 A. Ten minutes before my -- before I</p> <p>11 start. I start -- really, at 2:30 I</p> <p>12 start.</p> <p>13 Q. You start?</p> <p>14 A. The line starts at three o'clock.</p> <p>15 Q. The lines starts --</p> <p>16 A. I start --</p> <p>17 Q. Okay.</p> <p>18 A. -- as a line leader.</p> <p>19 Q. Okay.</p> <p>20 A. A line leader. When I was a USDA</p> <p>21 helper, I started at three o'clock.</p> <p>22 Q. Okay. When you were a USDA helper and</p> <p>23 you started at three o'clock, how many</p> |

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| <p style="text-align: right;">30</p> <p>1 minutes before three o'clock would you</p> <p>2 enter the production floor?</p> <p>3 A. It varied.</p> <p>4 Q. From what to what?</p> <p>5 A. Could be ten to fifteen minutes.</p> <p>6 Q. And now that you're a line leader and</p> <p>7 you go in at 2:30 and start doing this</p> <p>8 prep for the other people that are on</p> <p>9 the line, when do those employees come</p> <p>10 in onto the production floor?</p> <p>11 A. It varies with each one of them. Some</p> <p>12 of them are in there at fifteen minutes</p> <p>13 before time. Some of them are there</p> <p>14 five minutes before time. It varies</p> <p>15 with the person.</p> <p>16 Q. And why does it vary from the person,</p> <p>17 to your observation?</p> <p>18 A. They're different, you know. They're</p> <p>19 different people, you know.</p> <p>20 Q. Some people --</p> <p>21 A. What takes one longer to do doesn't</p> <p>22 take one as long to do.</p> <p>23 Q. Some people can put on the stuff, the</p> | <p style="text-align: right;">32</p> <p>1 Q. And is that true for everybody in the</p> <p>2 plant, as far as what you observed?</p> <p>3 A. I really couldn't say. I really</p> <p>4 couldn't.</p> <p>5 Q. What's the -- what causes you to get</p> <p>6 the full thirty minutes as opposed to</p> <p>7 something less?</p> <p>8 A. It's according to where I'm working at</p> <p>9 that day, if I'm on the line or if I'm</p> <p>10 on the floor. It's according to where</p> <p>11 I'm working at that particular time.</p> <p>12 Q. If you're on the floor, do you get the</p> <p>13 full thirty minutes or do you get less?</p> <p>14 A. If I'm on the floor, I'll probably --</p> <p>15 I'll get the full.</p> <p>16 Q. If you're on the line, you get less?</p> <p>17 A. Yes.</p> <p>18 Q. Why is that?</p> <p>19 A. Because the way the line runs. The</p> <p>20 line runs -- what is it, clockwise?</p> <p>21 Q. Uh-huh.</p> <p>22 A. So the person that's on the -- the</p> <p>23 farthest stand goes first, the first</p>   |
| <p style="text-align: right;">31</p> <p>1 PPE that they have to put on, on the</p> <p>2 production floor faster than others; is</p> <p>3 that correct?</p> <p>4 A. And some people just come in and talk</p> <p>5 before they get on the clock. It just</p> <p>6 varies and it depends on the person.</p> <p>7 Q. So some people come on beforehand, put</p> <p>8 their stuff on, and then just stand</p> <p>9 around and talk?</p> <p>10 A. Yes.</p> <p>11 Q. How many breaks do you get now as a</p> <p>12 line leader?</p> <p>13 A. Two.</p> <p>14 Q. And how long are those breaks?</p> <p>15 A. They're supposed to be thirty-minute</p> <p>16 breaks.</p> <p>17 Q. You say they're supposed to be</p> <p>18 thirty-minute breaks. I assume you're</p> <p>19 going to tell me you don't get the full</p> <p>20 thirty minutes; is that correct?</p> <p>21 A. Not usually, no.</p> <p>22 Q. Sometimes you do?</p> <p>23 A. Sometimes I do.</p>  | <p style="text-align: right;">33</p> <p>1 person on the lower stand goes last,</p> <p>2 but that's the person that's got to</p> <p>3 rotate back to the first stand. So the</p> <p>4 person on the end that has to go back</p> <p>5 to the first stand is not getting as</p> <p>6 much break time as the person that's,</p> <p>7 you know, on the first stand and it's</p> <p>8 rotating down.</p> <p>9 Q. So some people go on break before</p> <p>10 others; is that what you're telling me?</p> <p>11 A. As the line goes down.</p> <p>12 Q. How do you -- how do you know, or how</p> <p>13 does the line know, that it's time to</p> <p>14 take a break?</p> <p>15 A. There's no more birds.</p> <p>16 Q. Do you, as a line leader, go up and</p> <p>17 down the line saying --</p> <p>18 A. No.</p> <p>19 Q. -- anything? Okay. When break is</p> <p>20 over, you're in the break room, what</p> <p>21 tells you to go back to work?</p> <p>22 A. Nothing tells you to go back.</p> <p>23 Q. People just look at the clock?</p> |

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| <p style="text-align: right;">34</p> <p>1 A. Yes.</p> <p>2 Q. There's no bell or anything?</p> <p>3 A. No.</p> <p>4 Q. And do some people go back -- or are</p> <p>5 some people required to go back before</p> <p>6 others because the birds will get there</p> <p>7 first?</p> <p>8 A. The hangers and live hang have to be</p> <p>9 there first. The rehangers that we</p> <p>10 have have to be back before the -- open</p> <p>11 cut has to be back before the trimmers.</p> <p>12 So it's like a --</p> <p>13 Q. So it's staggered. They come back</p> <p>14 staggered?</p> <p>15 A. As you go down the line.</p> <p>16 Q. And they -- so they go for breaks</p> <p>17 staggered and they come back from</p> <p>18 breaks staggered?</p> <p>19 A. Yes.</p> <p>20 Q. I want you to take me through a typical</p> <p>21 day. Now -- well, let's start with</p> <p>22 when you were a USDA trimmer. Tell me</p> <p>23 what you do from the time you arrive at</p>                               | <p style="text-align: right;">36</p> <p>1 Q. And would the guard just wave you on if</p> <p>2 he saw your sticker?</p> <p>3 A. Yes.</p> <p>4 Q. Were you ever searched?</p> <p>5 A. No, sir.</p> <p>6 Q. Were any of your personal belongings</p> <p>7 ever searched?</p> <p>8 A. No, sir.</p> <p>9 Q. When you were a USDA trimmer and you</p> <p>10 would show up at fifteen minutes before</p> <p>11 your start time, were people that</p> <p>12 started the same time that you started,</p> <p>13 were some of those people already</p> <p>14 there?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And did some people that you worked</p> <p>17 with come after that?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Did people sort of -- do people, or did</p> <p>20 people at that point in time, stand</p> <p>21 around in the break room and talk for a</p> <p>22 while if they had any time, use the</p> <p>23 vending machines?</p>  |
| <p style="text-align: right;">35</p> <p>1 the plant to when you actually start</p> <p>2 your work, or what you did when you</p> <p>3 were a USDA trimmer.</p> <p>4 A. Enter the break room, clock in, put</p> <p>5 down my bag if I'm toting one. If not,</p> <p>6 I go to the supply window, pick up my</p> <p>7 supplies, put on my hair net, earplugs,</p> <p>8 go into the production area.</p> <p>9 Q. Now, that's what you did when you were</p> <p>10 a USDA trimmer?</p> <p>11 A. Yes.</p> <p>12 Q. And you were required, at that time, to</p> <p>13 start work at three o'clock?</p> <p>14 A. Yes, sir.</p> <p>15 Q. What time would you usually arrive at</p> <p>16 the plant when you were a USDA trimmer?</p> <p>17 A. Two forty-five.</p> <p>18 Q. Did you have to clear any kind of</p> <p>19 security when you were a USDA trimmer?</p> <p>20 A. At the gate. You have to come through</p> <p>21 the gate.</p> <p>22 Q. Did you have a sticker for your car?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">37</p> <p>1 A. Some people.</p> <p>2 Q. Now, when you were a USDA trimmer and</p> <p>3 you started at three o'clock, what time</p> <p>4 would you walk onto the production</p> <p>5 floor usually?</p> <p>6 A. I -- I can't really tell you a time.</p> <p>7 Q. Was it five minutes before, two minutes</p> <p>8 before, or did it vary?</p> <p>9 A. Maybe ten minutes before.</p> <p>10 Q. It took you ten minutes to put on the</p> <p>11 stuff that you had to put on?</p> <p>12 A. No. It took me five to ten minutes to</p> <p>13 get it sometimes. There's sometimes a</p> <p>14 line at the supply window.</p> <p>15 Q. Okay. But we're -- we're not at the</p> <p>16 supply window now. Now we're at the</p> <p>17 point in time where it's almost</p> <p>18 three o'clock and you've gotten your</p> <p>19 supplies and you're in the break room</p> <p>20 and you know your shift starts at</p> <p>21 three o'clock. Okay?</p> <p>22 A. Okay.</p> <p>23 Q. How many minutes before three o'clock,</p> |



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| <p style="text-align: right;">38</p> <p>1 to your best estimate, would you walk</p> <p>2 into the production floor?</p> <p>3 MR. UNDERWOOD: You're talking</p> <p>4 about before she goes to the line?</p> <p>5 MR. FRY: Yes.</p> <p>6 MR. UNDERWOOD: Okay.</p> <p>7 Q. Before you go on the line.</p> <p>8 A. I -- I can't really say. It varied.</p> <p>9 Q. From what to what?</p> <p>10 MR. UNDERWOOD: If you know.</p> <p>11 A. I'm not sure.</p> <p>12 Q. Okay. How long did it -- how long did</p> <p>13 it take you to walk from the evis break</p> <p>14 room onto the production floor?</p> <p>15 A. I have no idea.</p> <p>16 Q. How close -- are you done?</p> <p>17 A. Okay.</p> <p>18 Q. How close is the evis break room from</p> <p>19 the production floor?</p> <p>20 (No immediate response given.)</p> <p>21 Q. Isn't it right across the hallway?</p> <p>22 A. That's the evis break room, yes, sir.</p> <p>23 Q. That's what we're talking about.</p>   | <p style="text-align: right;">40</p> <p>1 Q. And how long does that take you from</p> <p>2 the time you enter the plant till you</p> <p>3 get on -- go onto the production floor?</p> <p>4 A. Sir, I don't -- I don't know.</p> <p>5 Q. Okay.</p> <p>6 A. I don't know.</p> <p>7 Q. Do you ever go to the break room before</p> <p>8 you go onto the production floor?</p> <p>9 A. I'm coming out of the break room.</p> <p>10 Q. Okay. You -- you go from the -- you</p> <p>11 pick up your supplies and you go to the</p> <p>12 break room?</p> <p>13 A. Right.</p> <p>14 Q. What do you do in the break room?</p> <p>15 A. I go to my locker.</p> <p>16 (Phone interruption.)</p> <p>17 Q. Your locker is in the break room?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Once you retrieve your items from the</p> <p>20 locker, what do you do?</p> <p>21 A. I walk back up the hall to the</p> <p>22 production area.</p> <p>23 Q. So you time it so that you get there in</p>   |
| <p style="text-align: right;">39</p> <p>1 A. Okay.</p> <p>2 Q. That's where you have worked; correct?</p> <p>3 A. In evis.</p> <p>4 Q. Yeah.</p> <p>5 A. But the lockers are in debone break</p> <p>6 room, so there's a distance. So, you</p> <p>7 know, if you're coming from your</p> <p>8 locker, there's a difference in it.</p> <p>9 Q. Okay. You mentioned waiting at the</p> <p>10 supply line when you come to work and</p> <p>11 you have to pick up your smock, hair</p> <p>12 net, and gloves. How long does it</p> <p>13 typically take you to wait in line?</p> <p>14 A. Five to ten minutes.</p> <p>15 Q. And then you walk from there to where?</p> <p>16 Where do you go from the supply room?</p> <p>17 A. If I haven't gotten my things out of my</p> <p>18 locker, I go to debone break room to go</p> <p>19 to my locker and get the things that I</p> <p>20 don't have to pick up that day. That's</p> <p>21 my apron, my arm guard. I go get them.</p> <p>22 Q. And then where do you go?</p> <p>23 A. Then I go to the production floor.</p> | <p style="text-align: right;">41</p> <p>1 time to just pick everything up and</p> <p>2 walk into the production area?</p> <p>3 A. Pretty much.</p> <p>4 Q. Do some employees stick around in the</p> <p>5 break room for a while after they</p> <p>6 arrive?</p> <p>7 A. Yes.</p> <p>8 Q. Are you required to perform any washing</p> <p>9 of anything prior to the start of</p> <p>10 production or were you? Pardon me.</p> <p>11 We're still talking about the time when</p> <p>12 you were a USDA trimmer. Were you</p> <p>13 required to do any washing before you</p> <p>14 actually started your work in the</p> <p>15 afternoon?</p> <p>16 A. Yes. You are required to wash your</p> <p>17 apron off, your gloves. It's a</p> <p>18 requirement to wash your hands before</p> <p>19 you put the gloves on if you're -- you</p> <p>20 know, that -- that was a requirement.</p> <p>21 Q. Once you got onto the production floor</p> <p>22 as a USDA helper and you had to put on</p> <p>23 your smock and the other items, can you</p> |

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| <p style="text-align: right;">42</p> <p>1 estimate for me how long it took you to</p> <p>2 put that stuff on?</p> <p>3 A. Estimate maybe eight to ten minutes.</p> <p>4 Q. So you have -- you already have your --</p> <p>5 had your hair net on. You had your</p> <p>6 earplugs on and you had your boots on.</p> <p>7 So you had to put on your smock and</p> <p>8 your apron and your plastic arm guards;</p> <p>9 correct?</p> <p>10 A. And your gloves.</p> <p>11 Q. And your gloves?</p> <p>12 A. And your liners. Well, your liners and</p> <p>13 your gloves.</p> <p>14 Q. And that took you eight to ten minutes?</p> <p>15 A. You have to put them on and tie them.</p> <p>16 Sometimes you have to roll the sleeves</p> <p>17 up.</p> <p>18 MR. UNDERWOOD: He just asked</p> <p>19 you did that take you eight to ten</p> <p>20 minutes. That's a yes or no.</p> <p>21 THE WITNESS: Oh, I'm sorry.</p> <p>22 A. Yes.</p> <p>23 THE WITNESS: Sorry.</p> | <p style="text-align: right;">44</p> <p>1 Q. And then you go to the supply --</p> <p>2 A. Yes, sir.</p> <p>3 Q. -- area. Now, you told me that now</p> <p>4 that you're a line leader, that you</p> <p>5 actually start working at 2:30?</p> <p>6 A. Yes, sir.</p> <p>7 Q. So what time do you arrive at the</p> <p>8 plant?</p> <p>9 A. Two-fifteen, 2:20.</p> <p>10 Q. And once you get into the plant, you</p> <p>11 swipe in; correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And then you go to the supply area and</p> <p>14 pick up supplies?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Now that you're a line leader and you</p> <p>17 come earlier than you did before, is</p> <p>18 there a line at the supply ---</p> <p>19 A. No, sir.</p> <p>20 Q. There's no line now?</p> <p>21 A. No.</p> <p>22 Q. So you pick that stuff up and then</p> <p>23 where do you go?</p>  |
| <p style="text-align: right;">43</p> <p>1 MR. UNDERWOOD: That's okay.</p> <p>2 Q. From what you are able to observe, do</p> <p>3 some -- could some employees do it</p> <p>4 quicker?</p> <p>5 MR. UNDERWOOD: Object to the</p> <p>6 form.</p> <p>7 A. I -- I really can't say.</p> <p>8 Q. You don't have any observation of how</p> <p>9 other people do it or how long it takes</p> <p>10 them?</p> <p>11 A. No, sir.</p> <p>12 Q. Let's now shift to your current</p> <p>13 position as line leader. From the time</p> <p>14 you arrive at the plant, I assume</p> <p>15 everything -- that the initial things</p> <p>16 we talked about of clearing security is</p> <p>17 the same?</p> <p>18 A. Yes, sir.</p> <p>19 Q. You're not searched in any way?</p> <p>20 A. No, sir.</p> <p>21 Q. When you -- then you come in and you</p> <p>22 clock in?</p> <p>23 A. Yes, sir.</p>   | <p style="text-align: right;">45</p> <p>1 A. I go to the evis floor, evis production</p> <p>2 area.</p> <p>3 Q. To go to your locker first?</p> <p>4 A. No.</p> <p>5 Q. Why not?</p> <p>6 A. Because I don't have to -- I don't use</p> <p>7 the apron when I first get there now.</p> <p>8 I don't have to put on the apron or the</p> <p>9 gloves when I first get in now.</p> <p>10 Q. What do you have to put on when you</p> <p>11 first get in?</p> <p>12 A. Hair net, earplugs, and then going to</p> <p>13 production area, the -- my smock.</p> <p>14 Q. And then tell me what you do. You</p> <p>15 start your picking up knives for</p> <p>16 everybody?</p> <p>17 A. Then you have to go to the knife room</p> <p>18 and retrieve the knives. The -- the --</p> <p>19 we have a tool box in which we put our</p> <p>20 knives and chain gloves in. And we</p> <p>21 bring them from over on the other side</p> <p>22 of debone back over to evis. We count</p> <p>23 them, make sure everything's there.</p> |

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| <p style="text-align: right;">46</p> <p>1 Then we proceed to put the knives or</p> <p>2 scissors out on the line. We then go</p> <p>3 into the office, the evisceration</p> <p>4 office, and pick up our clipboards and</p> <p>5 our production paperwork for that day</p> <p>6 and bring them out to the floor.</p> <p>7 Q. Then what happens?</p> <p>8 A. Then we do an attendance as people come</p> <p>9 in. We do the attendance sheet. And</p> <p>10 then we wait for the line -- for the --</p> <p>11 Q. Now, these activities that you've been</p> <p>12 describing for me -- picking up the</p> <p>13 knives, picking up your paperwork,</p> <p>14 taking attendance -- are you paid for</p> <p>15 that? Is it your understanding that</p> <p>16 you're paid for that?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And that -- that time that you spend is</p> <p>19 not part of your claim in this lawsuit;</p> <p>20 is that correct?</p> <p>21 A. No, sir.</p> <p>22 Q. Is that correct?</p> <p>23 A. Yes, sir.</p> | <p style="text-align: right;">48</p> <p>1 A. I can't.</p> <p>2 Q. You can't?</p> <p>3 A. I can't.</p> <p>4 Q. Doesn't take very long, though, does</p> <p>5 it?</p> <p>6 A. No, sir.</p> <p>7 Q. Tell me what you need to do when it's</p> <p>8 time for a break. Do you take -- let</p> <p>9 me ask -- let's start with this. Do</p> <p>10 you take a break -- as line leader, do</p> <p>11 you take a break at the same time as</p> <p>12 the line employees take it?</p> <p>13 A. Sometimes.</p> <p>14 Q. And when you do not take it at the same</p> <p>15 time, why not?</p> <p>16 A. Because I have to wash down the evis</p> <p>17 floor during the break.</p> <p>18 Q. And do you have to do that at every</p> <p>19 single break?</p> <p>20 A. Sometimes, sir, yes, I do.</p> <p>21 Q. So that's part of your normal job?</p> <p>22 A. Yes. When we're short of help, yes,</p> <p>23 sir.</p>   |
| <p style="text-align: right;">47</p> <p>1 Q. Okay. Now, you say you only put a</p> <p>2 smock on when you come to work now?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Do you put anything on during the</p> <p>5 course of the work day, anything else?</p> <p>6 A. I do. I put on gloves and I will have</p> <p>7 to put on an apron later if I have to</p> <p>8 work on the line.</p> <p>9 Q. But the only additional piece of -- of</p> <p>10 items that you put on are gloves unless</p> <p>11 you have to go on the line and</p> <p>12 substitute for somebody; correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. So the only thing you really put on</p> <p>15 when you go into the production floor</p> <p>16 in the morning is a smock; is that</p> <p>17 correct?</p> <p>18 A. Yes. That I don't already have on,</p> <p>19 yes, sir.</p> <p>20 Q. And how long does that take you to put</p> <p>21 on, a few seconds?</p> <p>22 A. I've never timed it, sir.</p> <p>23 Q. Can you put it on while you're walking?</p>      | <p style="text-align: right;">49</p> <p>1 Q. And are you paid for that?</p> <p>2 A. Yes, sir.</p> <p>3 Q. When you don't have to wash down the</p> <p>4 evis floor and you go on break with</p> <p>5 everybody else, tell me what you do.</p> <p>6 A. When I go on break?</p> <p>7 Q. Yeah. Take me from the evis production</p> <p>8 floor to the break room or wherever you</p> <p>9 go for your break.</p> <p>10 A. I remove my smock, gloves, arm guard if</p> <p>11 I have on one, put them in the proper</p> <p>12 place on the rack, proceed out the</p> <p>13 production door, remove my hair net and</p> <p>14 earplugs once I get outside. Then if</p> <p>15 it -- go to whatever break room or</p> <p>16 where I decide to eat at.</p> <p>17 Q. How long does it take you to take the</p> <p>18 smock and the arm guards off?</p> <p>19 A. Sir, I have no idea.</p> <p>20 Q. You said you take your plastic sleeves</p> <p>21 off?</p> <p>22 A. Arm guard.</p> <p>23 Q. Arm guard. You only wear those if</p> |

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| <p>50</p> <p>1 you're filling for someone; correct?</p> <p>2 A. The arm guard, yes, sir.</p> <p>3 Q. How often during a typical day are you</p> <p>4 required to fill in on the actual evis</p> <p>5 line for someone? Does it happen every</p> <p>6 day?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And when you do that, is it for a brief</p> <p>9 period of time or are you there for the</p> <p>10 duration?</p> <p>11 A. Sometimes for a brief period of time.</p> <p>12 Sometimes it's for longer periods.</p> <p>13 Q. Before you leave the evis room, do you</p> <p>14 wash any of your PPE while on break?</p> <p>15 A. If I have on an apron, I wash it down</p> <p>16 to get the fat or chicken debris off of</p> <p>17 it. My gloves, I wash.</p> <p>18 Q. But if you -- if you haven't had to</p> <p>19 take a position on the line during that</p> <p>20 period, then you don't have to do that</p> <p>21 washing, do you?</p> <p>22 A. No, sir.</p> <p>23 Q. You can just take your smock off and</p> | <p>52</p> <p>1 A. Yes, sir.</p> <p>2 Q. So it's your choice?</p> <p>3 A. Yes, sir. As I stated, the lockers are</p> <p>4 in debone break room.</p> <p>5 Q. Take me the reverse now. It's time --</p> <p>6 you're a line leader. Break is over.</p> <p>7 What do you do?</p> <p>8 A. I come back in, put my hair net and</p> <p>9 earplugs on before I come back in, put</p> <p>10 my smock on, go through, check the</p> <p>11 line, make sure it's clean, make sure</p> <p>12 all tools are where they're supposed to</p> <p>13 be, and that's basically ...</p> <p>14 Q. Do you typically take your hair net off</p> <p>15 during break?</p> <p>16 A. Yes, sir.</p> <p>17 Q. When you were a USDA helper, what did</p> <p>18 you have -- did you have to do any</p> <p>19 additional things when you went off</p> <p>20 break back onto production?</p> <p>21 A. Such as, sir? I'm not understanding</p> <p>22 what you're talking about.</p> <p>23 Q. Well, now you go from the break room</p> |
| <p>51</p> <p>1 leave?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Can you estimate the length of time</p> <p>4 that expires from when it's time for</p> <p>5 you to go on your break to when you</p> <p>6 enter the break room when all you have</p> <p>7 to do is take your smock off?</p> <p>8 A. No, sir.</p> <p>9 Q. Less than a minute?</p> <p>10 A. Sir, I --</p> <p>11 Q. You don't know?</p> <p>12 A. I don't know.</p> <p>13 Q. How far do you have to walk from the</p> <p>14 production floor to the break room?</p> <p>15 A. It's according to what break room you</p> <p>16 go to, sir.</p> <p>17 Q. Okay. Do you have different break</p> <p>18 rooms you can go to?</p> <p>19 A. There -- there are two break rooms.</p> <p>20 Q. For evis?</p> <p>21 A. Evis -- evis workers can go to debone</p> <p>22 break room.</p> <p>23 Q. Oh, they can?</p>   | <p>53</p> <p>1 into the production floor, put on your</p> <p>2 smock, and then check the line;</p> <p>3 correct?</p> <p>4 A. (Witness nods head.)</p> <p>5 Q. When you were a USDA trimmer, helper,</p> <p>6 did you do any other additional steps</p> <p>7 when you were coming off break?</p> <p>8 A. Other than put on additional</p> <p>9 protective, no, sir.</p> <p>10 Q. And when you were coming off break as a</p> <p>11 USDA helper, how long would it take you</p> <p>12 to put on the smock, the apron, and the</p> <p>13 arm guards?</p> <p>14 A. I've never timed it, so I really don't</p> <p>15 know, sir.</p> <p>16 Q. Okay. Let's go to the end of the</p> <p>17 shift. When you were a USDA trimmer,</p> <p>18 describe for me what you had to do at</p> <p>19 the end of the day when your work was</p> <p>20 done and you're still in the production</p> <p>21 line, what you did from the time --</p> <p>22 from that time until when you got into</p> <p>23 your car.</p>  |

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| <p style="text-align: right;">54</p> <p>1 A. You come off the line, remove the chain<br/>2 glove, put your clipboard down, proceed<br/>3 over to take off your PPEs. Most of<br/>4 them wash them off before they take<br/>5 them out so they'll be -- the apron<br/>6 would be clean the next day or<br/>7 whatever. Take your smock and liners<br/>8 and put them in the area for them.<br/>9 Q. When you say "put them in the area for<br/>10 them," what do you mean, put them in<br/>11 the locker?<br/>12 A. No. Your smock goes in a -- for dirty<br/>13 smocks.<br/>14 Q. In a dumpster?<br/>15 A. Yeah, for dirty smocks.<br/>16 Q. So when you were a USDA trimmer, you<br/>17 took all the stuff off on the<br/>18 production floor?<br/>19 A. Except the hair net and earplugs.<br/>20 Q. And as you were walking -- and you<br/>21 washed it off before you took it off?<br/>22 A. Right.<br/>23 Q. And then you took it off and you exited</p> | <p style="text-align: right;">56</p> <p>1 A. At the end of production, I have my<br/>2 paperwork to finish, so I proceed to<br/>3 pick up the clipboards or the tools.<br/>4 It depends on what day it is and<br/>5 whether it's my time to do it or not.<br/>6 If it's my day to do the paperwork, I<br/>7 proceed to the back with the clipboards<br/>8 and I tally up all the paperwork and<br/>9 turn it in, make sure everything is put<br/>10 up.<br/>11 Q. The paperwork and the tools that you --<br/>12 that you -- what you do with respect to<br/>13 the tools at the end of the day, is it<br/>14 your understanding that you are paid<br/>15 for that time?<br/>16 A. Yes, sir.<br/>17 Q. And that's not part of this lawsuit, is<br/>18 it?<br/>19 A. No, sir.<br/>20 Q. After you're done with your paperwork<br/>21 and the tools, what do you do?<br/>22 A. I remove my smock and I go home.<br/>23 Q. That's all you have to do, throw your</p> |
| <p style="text-align: right;">55</p> <p>1 and you went into the break room where<br/>2 your locker is -- was?<br/>3 A. You --<br/>4 Q. In the little --<br/>5 A. -- dispose of the smock first.<br/>6 Q. And along the way you threw the smock<br/>7 in the dumpster?<br/>8 A. (Witness nods head.)<br/>9 Q. And then you put your stuff in your<br/>10 locker?<br/>11 A. Yes, sir.<br/>12 Q. And then you cart it out?<br/>13 A. Yes, sir.<br/>14 Q. And you walked out?<br/>15 A. Yes, sir.<br/>16 Q. Can you put an estimate on the amount<br/>17 of time it took you to do it from the<br/>18 time you left the line until you walked<br/>19 out the door?<br/>20 A. No, sir.<br/>21 Q. Okay. Now that you are a line leader,<br/>22 tell me about what you do at the end of<br/>23 the work day.</p>  | <p style="text-align: right;">57</p> <p>1 smock in the dumpster and leave?<br/>2 A. And clock out, remove my hair net.<br/>3 Q. As a line leader now, what is your<br/>4 understanding of how Equity keeps track<br/>5 of the hours you work?<br/>6 A. If a line leader is -- I'm not really<br/>7 sure, not really.<br/>8 Q. Did you ever ask?<br/>9 A. I was given a set time to be there.<br/>10 Q. And what's the set time?<br/>11 A. Two-thirty.<br/>12 Q. Two-thirty. And is it your<br/>13 understanding that you're paid from<br/>14 2:30 on?<br/>15 A. Yes, sir.<br/>16 Q. Until when?<br/>17 A. Until clock out.<br/>18 Q. When you say --<br/>19 A. Until I clock out.<br/>20 Q. Until you clock out?<br/>21 A. Yes, sir.<br/>22 Q. And do you have any reason to believe<br/>23 that that's inaccurate, that being that</p>   |



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| <p style="text-align: right;">58</p> <p>1 you are paid from 2:30 in the afternoon</p> <p>2 until you swipe out at the end of the</p> <p>3 day?</p> <p>4 A. No, sir.</p> <p>5 Q. You -- that's how you are paid? That's</p> <p>6 your understanding?</p> <p>7 A. To my knowledge, sir. Yes, sir.</p> <p>8 Q. And after you clock out at the end of</p> <p>9 the day, you don't have any -- you</p> <p>10 don't spend any time putting things</p> <p>11 off -- taking things off or putting</p> <p>12 things on, do you?</p> <p>13 A. No, sir.</p> <p>14 Q. You've already clocked out; you're</p> <p>15 gone?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And have you ever had occasion to</p> <p>18 complain about the pay you've gotten?</p> <p>19 Did you ever think you were shorted on</p> <p>20 your check?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And did you bring that to the attention</p> <p>23 of the payroll folks?</p>   | <p style="text-align: right;">60</p> <p>1 A. No, sir.</p> <p>2 Q. Have you ever been asked or required to</p> <p>3 stay late and work overtime?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And when this occurred, were you paid</p> <p>6 time and a half for that overtime, to</p> <p>7 your knowledge?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Have you ever had any complaints about</p> <p>10 your overtime pay computation?</p> <p>11 A. I don't --</p> <p>12 Q. Pardon?</p> <p>13 A. I'm not understanding what you're</p> <p>14 saying.</p> <p>15 Q. Did you ever have any complaints about</p> <p>16 the overtime pay you got? Did you ever</p> <p>17 think you were shorted?</p> <p>18 A. No, sir.</p> <p>19 Q. Have you ever complained to any of your</p> <p>20 supervisors about any pay issues?</p> <p>21 MR. UNDERWOOD: Other than what</p> <p>22 she's already testified to about the</p> <p>23 hours?</p>  |
| <p style="text-align: right;">59</p> <p>1 A. My supervisor, sir.</p> <p>2 Q. And what happened?</p> <p>3 A. He fixed it. He straightened it out.</p> <p>4 Q. Was it just an error somewhere in</p> <p>5 payroll, to your understanding?</p> <p>6 A. To my understanding.</p> <p>7 Q. Is that the only time that happened?</p> <p>8 A. It used to happen quite frequently, but</p> <p>9 not lately.</p> <p>10 Q. But when you get your check, you -- do</p> <p>11 you review the payroll information --</p> <p>12 A. Yes, sir.</p> <p>13 Q. Have you ever kept any kind of diary or</p> <p>14 notes or anything, any document, that</p> <p>15 shows what you believe to be the hours</p> <p>16 that you're claiming in this lawsuit</p> <p>17 that you haven't been paid for?</p> <p>18 A. No, sir.</p> <p>19 Q. Do you know anybody that did?</p> <p>20 A. No, sir.</p> <p>21 Q. So you've never made any calculations</p> <p>22 of any time as to which you worked but</p> <p>23 weren't paid for?</p> | <p style="text-align: right;">61</p> <p>1 Q. Yes, other than what you've testified</p> <p>2 to, the one time that you thought that</p> <p>3 your check was in error.</p> <p>4 A. No, sir.</p> <p>5 Q. Who's Jackie Davis?</p> <p>6 A. A union representative.</p> <p>7 Q. And what about Kevin Granger? Is he</p> <p>8 also a union representative?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And Susie Wright?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And how are you familiar with these</p> <p>13 folks?</p> <p>14 A. How am I -- I knew Jackie Davis before</p> <p>15 I came to the plant. Susie Wright and</p> <p>16 I are line leaders in evis together.</p> <p>17 Kevin Granger, I've met him in passing.</p> <p>18 Q. You're not in the union?</p> <p>19 A. No, sir.</p> <p>20 Q. Have you ever talked to Jackie Davis,</p> <p>21 Kevin Granger, or Susie Wright</p> <p>22 concerning the claims and issues</p> <p>23 relative to this lawsuit?</p> |

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| <p style="text-align: right;">62</p> <p>1 A. No, sir.</p> <p>2 Q. You have never complained to any</p> <p>3 supervisor about any pay issues, have</p> <p>4 you?</p> <p>5 A. Other than the one time.</p> <p>6 Q. Except the one time. And have you ever</p> <p>7 filed a claim with the department of</p> <p>8 labor over any wage claims?</p> <p>9 A. No, sir.</p> <p>10 Q. Have you ever been disciplined with</p> <p>11 respect to your job at Equity?</p> <p>12 (No immediate response given.)</p> <p>13 Q. Have you ever been written up for</p> <p>14 anything?</p> <p>15 A. Yes, sir.</p> <p>16 Q. What for?</p> <p>17 A. I'm not sure how to put it. I fell and</p> <p>18 hurt my leg and I was wrote up for not</p> <p>19 using the appropriate handrail.</p> <p>20 Q. Okay. Is that the only time?</p> <p>21 A. I was written up for my job performance</p> <p>22 for not cutting a head off a chicken</p> <p>23 when I was on the production line when</p> | <p style="text-align: right;">64</p> <p>1 * * * * *</p> <p>2 REPORTER'S CERTIFICATE</p> <p>3 * * * * *</p> <p>4 STATE OF ALABAMA</p> <p>5 COUNTY OF MONTGOMERY</p> <p>6 I do hereby certify that the above</p> <p>7 and foregoing transcript was taken down</p> <p>8 by me in stenotype, and the questions</p> <p>9 and answers thereto were transcribed by</p> <p>10 means of computer-aided transcription,</p> <p>11 and that the foregoing represents a</p> <p>12 true and correct transcript of the</p> <p>13 testimony given by said witness.</p> <p>14 I further certify that I am neither</p> <p>15 of counsel, nor any relation to the</p> <p>16 parties to the action, nor am I anywise</p> <p>17 interested in the result of said case.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 <u>Bridgette W. Mitchell,</u></p> <p>22 Certified Court Reporter and</p> <p>23 Commissioner for the State of</p> <p>Alabama at Large</p> <p>ACCR No. 231 - Expires 9/30/08</p> <p>MY COMMISSION EXPIRES 1/25/2010</p> |
| <p style="text-align: right;">63</p> <p>1 I was a helper. I was written up one</p> <p>2 other time for failure to complete my</p> <p>3 job as a line leader. I did not mark</p> <p>4 somebody present because I didn't know</p> <p>5 they was here, so I was written up</p> <p>6 because that was part of my job.</p> <p>7 Q. Is that all?</p> <p>8 A. That's it.</p> <p>9 Q. Okay. I might have asked you in the</p> <p>10 beginning, but during the course of our</p> <p>11 talk here, has it refreshed your memory</p> <p>12 or recollection as to when you moved</p> <p>13 from a USDA trimmer to a line leader?</p> <p>14 A. No, sir.</p> <p>15 Q. Has it been in the last year?</p> <p>16 A. Yes, sir.</p> <p>17 Q. All right.</p> <p>18 MR. FRY: That's all. Thank</p> <p>19 you.</p> <p>20 MR. UNDERWOOD: I don't have</p> <p>21 any follow-up.</p> <p>22 (The deposition of Barbara Ann Darby</p> <p>23 concluded at 12:25 p.m. on 5/21/08.)</p>             |   |

**TAB 14**



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,  
Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,  
Defendant.

\* \* \* \* \*

DEPOSITION OF LAURIE DELBRIDGE,  
taken pursuant to notice and  
stipulation on behalf of the Defendant,  
at Williams, Pothoff, Williams & Smith,  
125 South Orange Avenue, Eufaula,  
Alabama, before Bridgette Mitchell,  
Shorthand Reporter and Notary Public in  
and for the State of Alabama at Large,  
on May 21, 2008, commencing at  
10:00 a.m.

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| <p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Carl E. Underwood, III, Esquire</p> <p>5 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>6 163 W. Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 M. John Steensland, III, Esquire</p> <p>10 PARKMAN, ADAMS &amp; WHITE</p> <p>11 739 West Main Street</p> <p>12 Dothan, Alabama 36301</p> <p>13</p> <p>14 FOR THE DEFENDANT:</p> <p>15 Gary D. Fry, Esquire</p> <p>16 PELINO &amp; LENTZ</p> <p>17 One Liberty Place</p> <p>18 Thirty-second Floor</p> <p>19 Philadelphia, Pennsylvania 19103</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 LAURIE DELBRIDGE is hereby waived and</p> <p>6 that said deposition may be introduced</p> <p>7 at the trial of this case or used in</p> <p>8 any other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21</p> <p>22 EXHIBIT Page</p> <p>23 DX-1 Response interrogatories 49</p>  |
| <p style="text-align: right;">3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of LAURIE DELBRIDGE is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p style="text-align: right;">5</p> <p>1 LAURIE DELBRIDGE, having first</p> <p>2 been duly sworn or affirmed to speak</p> <p>3 the truth, the whole truth, and nothing</p> <p>4 but the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Laurie Delbridge; right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Ms. Delbridge, my name, as you know, is</p> <p>10 Gary Fry. I'm one of the lawyers</p> <p>11 representing Equity Group Eufaula in</p> <p>12 connection with a lawsuit which you and</p> <p>13 some other folks have brought against</p> <p>14 the company. And we have asked you</p> <p>15 here today to put certain questions to</p> <p>16 you concerning your allegations in that</p> <p>17 lawsuit. Have you ever given a</p> <p>18 deposition before?</p> <p>19 A. No, sir.</p> <p>20 Q. Let me briefly explain what we're going</p> <p>21 to do and explain or ask that you</p> <p>22 follow a few guidelines. I'll be</p> <p>23 asking the questions and Bridgette, our</p> |

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| <p style="text-align: right;">6</p> <p>1 court reporter, will be taking down<br/>2 your answers. If you don't understand<br/>3 one of my questions, let me know and<br/>4 I'll try and rephrase it. If you don't<br/>5 hear one of my questions, let me know<br/>6 and I'll repeat it. I will try not to<br/>7 speak over you and I ask that you try<br/>8 not to speak over me during our<br/>9 dialogue here so the court reporter --<br/>10 because the court reporter can't take<br/>11 us both down at once. Okay?<br/>12 A. Okay.<br/>13 Q. So let's see if we can get a clean<br/>14 record in that respect. What is your<br/>15 home address?<br/>16 A. My home address is 426 East Troy<br/>17 Street, but I was living at 569 Highway<br/>18 239. That's where I receive my mail<br/>19 at.<br/>20 Q. And what town?<br/>21 A. In Union Springs.<br/>22 Q. What's your date of birth?<br/>23 A. 04/15/77.</p> | <p style="text-align: right;">8</p> <p>1 A. No, sir.<br/>2 Q. Do you recall when you were terminated<br/>3 in '06?<br/>4 A. No, sir.<br/>5 Q. During the time that you were employed<br/>6 at the Equity plant, what department<br/>7 did you work in?<br/>8 A. Evis.<br/>9 Q. Did you work in any other department<br/>10 during those three years?<br/>11 A. No, sir.<br/>12 Q. What shift did you work in the<br/>13 evisceration department?<br/>14 A. On the morning shift.<br/>15 Q. What were your hours?<br/>16 A. I don't know. I can't remember.<br/>17 Q. Did you work any other shifts in the<br/>18 evisceration department?<br/>19 A. No, sir.<br/>20 Q. So you worked the morning shift in evis<br/>21 for the entire three years, approximate<br/>22 three years, that you worked at the<br/>23 plant?</p>  |
| <p style="text-align: right;">7</p> <p>1 Q. Are you currently employed?<br/>2 A. Yes.<br/>3 Q. By who?<br/>4 A. Wal-Mart Distribution Center.<br/>5 Q. Were you at one time employed by the<br/>6 Equity plant in Baker Hill?<br/>7 A. Yes, sir.<br/>8 Q. What was the period of your employment?<br/>9 A. '03 to '06.<br/>10 Q. And for what reason did your employment<br/>11 end in 2006?<br/>12 A. I got fired.<br/>13 Q. Why were you fired?<br/>14 A. Point system.<br/>15 Q. Pardon?<br/>16 A. Point system.<br/>17 Q. The point system. And are you<br/>18 referring to the attendance system? Is<br/>19 that the point system you're referring<br/>20 to?<br/>21 A. Yes, sir.<br/>22 Q. When did you start in '03? Do you<br/>23 recall?</p>   | <p style="text-align: right;">9</p> <p>1 A. Yes, sir.<br/>2 Q. And what did you do?<br/>3 A. I was a trimmer and a shift leader.<br/>4 Q. Trimmer and shift leader?<br/>5 A. A lead person.<br/>6 Q. Lead person. What did you do as a<br/>7 trimmer?<br/>8 A. Trimmer cut back parts off chicken and<br/>9 marked bad chicken.<br/>10 Q. What did you do as a lead person?<br/>11 A. I rotated.<br/>12 Q. When you say you rotated, am I correct<br/>13 in assuming that you filled in when<br/>14 people were absent?<br/>15 A. Yes, sir.<br/>16 Q. Do you recall who your supervisor was?<br/>17 A. Yvonnia Prugh and Dick Green.<br/>18 Q. What was your rate of pay?<br/>19 A. I can't remember.<br/>20 Q. How many hours per week did you work?<br/>21 A. Can't remember that either.<br/>22 Q. But your shift, as you recall, started<br/>23 sometime in the morning, early morning?</p> |

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| <p style="text-align: right;">10</p> <p>1 A. Yes.</p> <p>2 Q. And am I correct that it ended in,</p> <p>3 say, early afternoon, mid afternoon?</p> <p>4 A. Say mid.</p> <p>5 Q. Mid afternoon?</p> <p>6 A. Mid afternoon.</p> <p>7 Q. And besides working as a trimmer and a</p> <p>8 lead person in the evis department on</p> <p>9 the morning shift, you had no other</p> <p>10 jobs at Equity during those three years</p> <p>11 that you worked there; is that correct?</p> <p>12 A. Can you repeat the question?</p> <p>13 Q. Sure. Besides your employment as a</p> <p>14 trimmer and a lead person in the</p> <p>15 morning shift in the evisceration</p> <p>16 department, am I correct that you had</p> <p>17 no other jobs in the plant during the</p> <p>18 time you worked there?</p> <p>19 A. No, sir.</p> <p>20 Q. Is that correct, you didn't have any</p> <p>21 other jobs, or you did have other jobs?</p> <p>22 A. I didn't have other jobs.</p> <p>23 Q. You did not have other jobs. Those are</p> | <p style="text-align: right;">12</p> <p>1 A. Earning all the hours that I worked</p> <p>2 with the company.</p> <p>3 Q. What do you mean by that?</p> <p>4 A. All the hours that I worked with the</p> <p>5 company.</p> <p>6 Q. What about all those hours?</p> <p>7 A. I don't understand what you're saying.</p> <p>8 Q. What's your claim in this lawsuit?</p> <p>9 A. All the hours that I earned with the</p> <p>10 company.</p> <p>11 Q. Let me see if I can -- if I understand</p> <p>12 you correctly. Are you claiming that</p> <p>13 you worked hours that you weren't paid</p> <p>14 for? Is that your claim?</p> <p>15 A. Yes, sir.</p> <p>16 Q. So you performed work -- your claim is</p> <p>17 that you performed work for the company</p> <p>18 for which you were not paid; is that</p> <p>19 correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Describe for me what work you performed</p> <p>22 for the company for which you think you</p> <p>23 were not paid.</p> |
| <p style="text-align: right;">11</p> <p>1 the only jobs you did?</p> <p>2 A. Trimmer and -- and shift leader, yes,</p> <p>3 sir.</p> <p>4 Q. Now, you are a plaintiff in this</p> <p>5 lawsuit; correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And what's your understanding of what</p> <p>8 this lawsuit is about?</p> <p>9 A. Can you repeat that?</p> <p>10 Q. How did you first learn about the</p> <p>11 lawsuit?</p> <p>12 A. A friend.</p> <p>13 Q. And what did the friend tell you?</p> <p>14 A. I can't recall everything that was</p> <p>15 said, though.</p> <p>16 Q. Well, do you recall anything of what he</p> <p>17 told you?</p> <p>18 A. Not really.</p> <p>19 Q. What do you think this lawsuit is</p> <p>20 about?</p> <p>21 A. Earned all that hours that I worked at</p> <p>22 the company.</p> <p>23 Q. Pardon?</p>   | <p style="text-align: right;">13</p> <p>1 A. Putting on my PPE.</p> <p>2 Q. What's PPE?</p> <p>3 A. Personal protective equipment.</p> <p>4 Q. Have you ever been involved in any</p> <p>5 other lawsuits?</p> <p>6 A. Yes.</p> <p>7 Q. And what were those suits about?</p> <p>8 A. Credit -- credit with Rent-A-Center --</p> <p>9 not Rent-A-Center. Rent-N-Roll.</p> <p>10 Q. Is that the only one?</p> <p>11 A. That I can recall right now.</p> <p>12 Q. When you started in 2003, am I correct</p> <p>13 that the owner of the plant was CP? Do</p> <p>14 you know what I mean when I say CP?</p> <p>15 A. No, sir.</p> <p>16 Q. Okay. I'm not sure I can pronounce it</p> <p>17 correctly.</p> <p>18 MR. FRY: Has anyone here ever</p> <p>19 pronounced it?</p> <p>20 MR. UNDERWOOD: No.</p> <p>21 Q. Charoen Pokphand. Does that ring a</p> <p>22 bell?</p> <p>23 A. Yes, sir.</p>   |

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| <p style="text-align: right;">14</p> <p>1 Q. So when you started in '03, that's --</p> <p>2 Charoen Pokphand is what I refer to</p> <p>3 when I say CP. Am I correct when you</p> <p>4 started at the plant, you were working</p> <p>5 for CP?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And at some point in time, about a year</p> <p>8 later, the company changed hands and</p> <p>9 Equity came in; is that correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did you notice any changes in how</p> <p>12 things were done when Equity took over</p> <p>13 from CP in what you could observe from</p> <p>14 doing your job?</p> <p>15 A. No, sir.</p> <p>16 Q. When you worked for CP, were you a</p> <p>17 member of the union?</p> <p>18 A. No, sir, not that I can recall.</p> <p>19 Q. What about when Equity took over, did</p> <p>20 you become a member of the union?</p> <p>21 A. I don't recall.</p> <p>22 Q. So you have no -- strike that. You</p> <p>23 don't believe you were a member of the</p> | <p style="text-align: right;">16</p> <p>1 A. Oh, yes, sir.</p> <p>2 Q. What did you look at?</p> <p>3 A. I don't know what documents, but I</p> <p>4 looked at documents.</p> <p>5 Q. What do you recall about the documents</p> <p>6 that you looked at?</p> <p>7 A. I don't know.</p> <p>8 Q. Did you look at the Complaint that was</p> <p>9 filed in this case?</p> <p>10 A. I don't know.</p> <p>11 Q. You don't recall anything about any of</p> <p>12 the papers you looked at before you</p> <p>13 came here in connection with this</p> <p>14 proceeding?</p> <p>15 A. No.</p> <p>16 MR. UNDERWOOD: Just for the</p> <p>17 record, the only things, my</p> <p>18 understanding, they would review --</p> <p>19 and I've been involved in some of the</p> <p>20 prep -- is their interrogatories and</p> <p>21 their declaration and nothing else.</p> <p>22 MR. FRY: Okay. Thank you.</p> <p>23 MR. UNDERWOOD: Sure.</p>                                     |
| <p style="text-align: right;">15</p> <p>1 union?</p> <p>2 A. I can't recall. I can't recall that.</p> <p>3 Q. Are you aware that the production folks</p> <p>4 at the plant are represented by the</p> <p>5 retail, wholesale, and department store</p> <p>6 union?</p> <p>7 A. Can you rephrase that?</p> <p>8 Q. Are you aware that the production folks</p> <p>9 that work at the plant are represented</p> <p>10 by a union?</p> <p>11 A. No, I don't know that.</p> <p>12 Q. So I take it you never attended any</p> <p>13 union meetings, either when CP had the</p> <p>14 plant or afterwards?</p> <p>15 A. No, sir.</p> <p>16 Q. Did you review any documents in</p> <p>17 preparation for this deposition?</p> <p>18 A. I don't know. I don't know.</p> <p>19 Q. You don't know?</p> <p>20 A. (Witness shakes head.)</p> <p>21 MR. UNDERWOOD: He's just</p> <p>22 asking did you look at any paperwork to</p> <p>23 get ready for this deposition.</p>                                       | <p style="text-align: right;">17</p> <p>1 Q. (By Mr. Fry) Did you speak with anybody</p> <p>2 about coming here today except your</p> <p>3 lawyers?</p> <p>4 A. No, sir.</p> <p>5 Q. Ms. Delbridge, I would like for you to</p> <p>6 now identify for me what items of PPE,</p> <p>7 as you phrased it, you wore on a daily</p> <p>8 basis when you were working at CP.</p> <p>9 A. Hair net, earplugs, smocks, apron,</p> <p>10 sleeve, gloves, chain gloves, boots,</p> <p>11 arm guard. That's all I recall right</p> <p>12 now.</p> <p>13 Q. After Equity took over, did you wear</p> <p>14 those same items of PPE?</p> <p>15 A. Yes, sir.</p> <p>16 Q. So let me read the list and make sure</p> <p>17 we've got it complete. You wore a hair</p> <p>18 net, earplugs, smock, apron, sleeves --</p> <p>19 were those the blue sleeves, plastic</p> <p>20 sleeves?</p> <p>21 A. Yes.</p> <p>22 Q. -- gloves. Rubber gloves?</p> <p>23 A. Rubber gloves, yes.</p> |

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| <p style="text-align: right;">18</p> <p>1 Q. Did you wear white cotton gloves</p> <p>2 underneath?</p> <p>3 A. Yes.</p> <p>4 Q. A chain glove?</p> <p>5 A. Yes.</p> <p>6 Q. Boots and an arm guard -- arm guards?</p> <p>7 A. Arm guard, yes, sir.</p> <p>8 Q. Which of those items were you required</p> <p>9 to wear on the job?</p> <p>10 A. All of them.</p> <p>11 Q. None of them were optional? Is that</p> <p>12 your understanding?</p> <p>13 A. Not that I recall.</p> <p>14 Q. Could you be written up for not wearing</p> <p>15 any one of those items?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And how did you get that understanding?</p> <p>18 Who told you all these items were</p> <p>19 required?</p> <p>20 A. Supervisor.</p> <p>21 Q. And when were you told, when you</p> <p>22 started?</p> <p>23 A. Yes, sir.</p>   | <p style="text-align: right;">20</p> <p>1 would issue to you?</p> <p>2 A. I don't know. I don't know that.</p> <p>3 Q. During the period of time that you</p> <p>4 worked there that the plant was</p> <p>5 operated by CP, did you receive all of</p> <p>6 these items from CP?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Which of these items that you described</p> <p>9 for me did you pick up on a daily</p> <p>10 basis, if any?</p> <p>11 A. Can you rephrase that?</p> <p>12 Q. Sure. You say each of these items was</p> <p>13 issued to you by the company, be it CP</p> <p>14 or Equity, correct?</p> <p>15 A. Yes.</p> <p>16 Q. When did you get them? Did you get</p> <p>17 them on a daily basis, a weekly basis?</p> <p>18 A. Maybe twice a day.</p> <p>19 Q. Twice a day?</p> <p>20 A. Not twice a day, but twice out of the</p> <p>21 week.</p> <p>22 Q. Twice a week. So --</p> <p>23 A. Every -- every other day.</p> |
| <p style="text-align: right;">19</p> <p>1 Q. And when Equity took over, were you</p> <p>2 told that each and every one of these</p> <p>3 items were required to be worn while</p> <p>4 you were performing your job in the</p> <p>5 evisceration department?</p> <p>6 A. Yes, sir.</p> <p>7 Q. From what you were able to observe in</p> <p>8 the evisceration department, did every</p> <p>9 single employee in there wear all of</p> <p>10 these items?</p> <p>11 A. Yes, sir. That I can recall, yes.</p> <p>12 Q. I want to refer now just to the period</p> <p>13 of time from 2004 on when you worked --</p> <p>14 when the plant was operated by Equity.</p> <p>15 Which of these items that you have</p> <p>16 listed for me were issued to you by the</p> <p>17 company?</p> <p>18 A. All of them.</p> <p>19 Q. Including the boots?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Were you told you could wear your own</p> <p>22 boots if you so wished, that you didn't</p> <p>23 have to wear the boots that the company</p> | <p style="text-align: right;">21</p> <p>1 Q. Every other day?</p> <p>2 A. Uh-huh.</p> <p>3 Q. You would be issued new -- each of the</p> <p>4 items you identified for me, every</p> <p>5 other day you would get a replacement?</p> <p>6 A. If we wanted to.</p> <p>7 Q. Where would these items be issued to</p> <p>8 you?</p> <p>9 A. At the supply room.</p> <p>10 Q. Could you wear any of these things from</p> <p>11 home?</p> <p>12 A. I didn't.</p> <p>13 Q. Could you? Were you told -- were you</p> <p>14 ever told that you could wear them from</p> <p>15 home?</p> <p>16 A. I don't -- I don't know.</p> <p>17 Q. You don't know?</p> <p>18 A. No.</p> <p>19 Q. What about your boots, you wore them</p> <p>20 from home?</p> <p>21 A. Yes, sir, the boots.</p> <p>22 Q. What about your ear protection?</p> <p>23 A. No, sir.</p>   |



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| <p style="text-align: right;">22</p> <p>1 Q. When you were not at work, where did<br/>2 you store these items? Or did you take<br/>3 them with you?<br/>4 A. After two days, I would change mine. I<br/>5 would throw them away.<br/>6 Q. Well, after day one, when you left<br/>7 work, did you take all these items with<br/>8 you?<br/>9 A. Take them home.<br/>10 Q. Including the smock?<br/>11 A. Yes, sir.<br/>12 Q. Were you responsible for washing the<br/>13 smock?<br/>14 A. Yes, sir.<br/>15 Q. And who told you that?<br/>16 A. You had to wear a clean one. It had to<br/>17 be sanitized, clean.<br/>18 Q. Is it your testimony you did not<br/>19 receive a new smock every day?<br/>20 A. No, sir.<br/>21 Q. You got one every other day?<br/>22 A. Every other day.<br/>23 Q. So did you wash your smock every night?</p>                                     | <p style="text-align: right;">24</p> <p>1 production floor. Is that what you're<br/>2 saying?<br/>3 A. Yes, sir.<br/>4 Q. Where did you put on the plastic apron?<br/>5 A. On the production floor.<br/>6 Q. Where did you put on the plastic<br/>7 sleeves?<br/>8 A. On the production floor.<br/>9 Q. Where did you put on the plastic arm<br/>10 guards?<br/>11 A. On the production floor.<br/>12 Q. What about the cotton gloves and the<br/>13 rubber gloves?<br/>14 A. On the production floor.<br/>15 Q. Where did you put on your boots?<br/>16 A. At home or either in the break room.<br/>17 Q. What about your hair net?<br/>18 A. In the break room.<br/>19 Q. And the same for the earplugs, you put<br/>20 those on in the break room?<br/>21 A. Yes, sir.<br/>22 Q. So with the exception of the boots, the<br/>23 hair net, and the earplugs, you put</p>                              |
| <p style="text-align: right;">23</p> <p>1 A. Yes, sir.<br/>2 Q. These items that you have described for<br/>3 me, can you tell me where you put them<br/>4 on at the start of your work day?<br/>5 Where did you put on each of these<br/>6 items of clothing?<br/>7 A. Inside evis.<br/>8 Q. What do you mean "inside evis"?<br/>9 A. At the start of where you hang your<br/>10 equipment at.<br/>11 Q. Let's go about it this way. When the<br/>12 company was operated by Equity and you<br/>13 were working there, when you went to<br/>14 work in the morning in the evisceration<br/>15 department, where did you put on your<br/>16 smock?<br/>17 A. When you walk in.<br/>18 Q. Walk in where?<br/>19 A. In evis.<br/>20 Q. Onto the production floor?<br/>21 A. Yes, sir.<br/>22 Q. So when you went on -- so you didn't<br/>23 put it on before you went onto the</p> | <p style="text-align: right;">25</p> <p>1 everything else on when you went onto<br/>2 the production floor in evis; correct?<br/>3 A. Yes, sir.<br/>4 Q. Did your job require you to use a knife<br/>5 or scissors?<br/>6 A. Yes, sir.<br/>7 Q. And how did you get those things to<br/>8 use?<br/>9 A. It would be at the work area.<br/>10 Q. Were they supplied to you by your<br/>11 supervisor at your workstation?<br/>12 A. Yes, sir.<br/>13 Q. It wasn't your job to keep those things<br/>14 sharpened or maintained, was it?<br/>15 A. When I was a shift leader, a lead<br/>16 person, I had to take them to the knife<br/>17 room. I didn't sharpen them, though.<br/>18 Q. Did you use a knife and scissors?<br/>19 A. Yes, sir.<br/>20 Q. Did you use any other types of<br/>21 equipment?<br/>22 A. No, sir, not that I can recall.<br/>23 Q. Now, I think you told me at the outset</p> |

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| <p style="text-align: right;">26</p> <p>1 that you can't recall what time your</p> <p>2 shift started, only it was in the</p> <p>3 morning sometime; is that correct?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Were you required to be at your</p> <p>6 workstation on the production line at</p> <p>7 the start of whatever time that was</p> <p>8 that your shift started?</p> <p>9 A. Yes, sir.</p> <p>10 Q. How many breaks did you get during your</p> <p>11 shift? And we're talking now about</p> <p>12 when Equity owned the plant.</p> <p>13 A. Two.</p> <p>14 Q. Incidentally, let's go back to when CP</p> <p>15 owned the plant. At that point in</p> <p>16 time, did you put on your smock, apron,</p> <p>17 sleeves and so forth when you entered</p> <p>18 the production floor?</p> <p>19 A. Yes, sir.</p> <p>20 Q. How long is each of the breaks that you</p> <p>21 had?</p> <p>22 A. It was supposed to be thirty minutes,</p> <p>23 but I only got maybe twenty.</p> | <p style="text-align: right;">28</p> <p>1 Q. And after that, did you get any other</p> <p>2 breaks?</p> <p>3 A. No, sir.</p> <p>4 Q. And is that true for both the CP period</p> <p>5 and the Equity period?</p> <p>6 A. Yes, sir.</p> <p>7 Q. How did you know it was time to take</p> <p>8 your break?</p> <p>9 A. When the last chicken come around.</p> <p>10 Q. Would your supervisor tell you, Break</p> <p>11 time's coming up; you can leave as soon</p> <p>12 as the last bird passes your position?</p> <p>13 Was it something like that happened?</p> <p>14 A. Yes, sir.</p> <p>15 Q. So am I correct in assuming that some</p> <p>16 people left before other people,</p> <p>17 depending on where the birds were?</p> <p>18 A. Yes, sir.</p> <p>19 Q. When you come back on break, did it</p> <p>20 happen in the reverse, some people had</p> <p>21 to come back first because the birds</p> <p>22 got there first?</p> <p>23 A. Yes, sir.</p>   |
| <p style="text-align: right;">27</p> <p>1 Q. And how do you know you only got twenty</p> <p>2 out of the thirty-minute break?</p> <p>3 A. I had to walk to the station, take my</p> <p>4 equipment off, sanitize them, and go to</p> <p>5 break.</p> <p>6 Q. Did you ever time how long it took you</p> <p>7 to do this?</p> <p>8 A. No, sir.</p> <p>9 Q. Where did you take your break?</p> <p>10 A. In the break room.</p> <p>11 Q. Do you recall when you took your first</p> <p>12 break of the day? Was it sometime in</p> <p>13 the morning?</p> <p>14 A. Yes, sir.</p> <p>15 Q. After you had worked for a couple of</p> <p>16 hours?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And what about the second break, do you</p> <p>19 recall when that was?</p> <p>20 A. Lunchtime.</p> <p>21 Q. So you considered the second break your</p> <p>22 lunchtime?</p> <p>23 A. Yes, sir.</p>   | <p style="text-align: right;">29</p> <p>1 Q. When you were in the break room and it</p> <p>2 was time for the break to be over, how</p> <p>3 did you know that it was time to go</p> <p>4 back to the production floor?</p> <p>5 A. I was told that we had to be on the</p> <p>6 line five minutes before the break come</p> <p>7 around.</p> <p>8 Q. And who told you that?</p> <p>9 A. Supervisor, so we won't be late.</p> <p>10 Q. But some people went back first because</p> <p>11 the bird got there first; is that</p> <p>12 correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. How soon, do you recall, that you</p> <p>15 usually arrived at the plant before</p> <p>16 your shift actually started?</p> <p>17 A. Twenty minutes.</p> <p>18 Q. Describe for me what you did during</p> <p>19 those twenty minutes. From the time</p> <p>20 that you drove in until you stepped up</p> <p>21 onto your workstation, what did you do?</p> <p>22 A. Go get my equipment, use the bathroom.</p> <p>23 That's all I remember right now.</p> |



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| <p style="text-align: right;">30</p> <p>1 Q. You didn't have to get the equipment<br/>2 every day, did you?<br/>3 A. No, sir.<br/>4 Q. So on those days that you didn't have<br/>5 to go get your equipment, you brought<br/>6 it with you from home; is that correct?<br/>7 A. Yes, sir.<br/>8 Q. And did you just go to the break room<br/>9 and wait on those days?<br/>10 A. I will sanitize it.<br/>11 Q. Well, am I correct that you sanitized<br/>12 it once you entered the production<br/>13 floor?<br/>14 A. Yes, sir.<br/>15 Q. On those days when you didn't have to<br/>16 pick up any equipment after you entered<br/>17 the plant, did you go to the break<br/>18 room?<br/>19 A. Yes, sir.<br/>20 Q. And what did you do there?<br/>21 A. When I didn't have to get my equipment,<br/>22 I'll come about ten minutes -- ten<br/>23 minutes to the time I have to be there,</p> | <p style="text-align: right;">32</p> <p>1 A. Yes, sir.<br/>2 Q. Once you parked your car and you walked<br/>3 in, did you swipe in?<br/>4 A. Yes, sir.<br/>5 Q. On those days when you did have to pick<br/>6 up new equipment, you had to go to the<br/>7 supply room; correct?<br/>8 A. Yes, sir.<br/>9 Q. How long did that take, to pick up the<br/>10 new stuff?<br/>11 A. I don't know.<br/>12 Q. I don't need a precise answer. Can you<br/>13 estimate it?<br/>14 A. No, sir.<br/>15 Q. Was there a line there?<br/>16 A. Yes, sir.<br/>17 Q. How big of a line?<br/>18 A. I don't know how big the line was.<br/>19 Q. Pardon?<br/>20 A. I don't know how big the line was.<br/>21 Q. Okay. Prior to the time that your<br/>22 shift actually started, when you<br/>23 started working on the birds, when --</p>   |
| <p style="text-align: right;">31</p> <p>1 be on the line.<br/>2 Q. On those days when you didn't have to<br/>3 pick up any new equipment, what did you<br/>4 do?<br/>5 A. Go to the break room.<br/>6 Q. And what did you do in the break room?<br/>7 A. Wait until time to go in.<br/>8 Q. Did you have to clear any security when<br/>9 you came into the plant?<br/>10 A. I don't understand the question.<br/>11 Q. Were you searched when you entered the<br/>12 plant?<br/>13 A. No, sir.<br/>14 Q. Were any of your personal possessions<br/>15 searched when you entered the plant?<br/>16 A. No, sir.<br/>17 Q. Is it fair to say -- did you have a<br/>18 sticker for your car?<br/>19 A. Yes, sir.<br/>20 Q. And is it fair to say that when you<br/>21 drove onto the property, if the guard<br/>22 in the guard shack saw your sticker, he<br/>23 would just wave you on?</p>     | <p style="text-align: right;">33</p> <p>1 how much time before that did you<br/>2 actually go onto the production floor?<br/>3 A. I don't know. I don't know.<br/>4 Q. How long did it take you to travel from<br/>5 the break room to the production floor?<br/>6 A. I don't know.<br/>7 Q. It's right across the hall, isn't it,<br/>8 the evis break room from the evis<br/>9 department?<br/>10 A. Yes, sir.<br/>11 Q. How did you know it was time to leave<br/>12 the break room when you first got there<br/>13 in the morning to go to your<br/>14 workstation?<br/>15 A. Had to be on the line at five<br/>16 minutes -- five minutes till the time.<br/>17 Q. So you just watched the clock?<br/>18 A. Yes, sir.<br/>19 Q. Tell me what you did from the time you<br/>20 left the break room until you got to<br/>21 your workstation.<br/>22 A. When I got in the production area, I<br/>23 put on my equipment.</p> |

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| <p style="text-align: right;">34</p> <p>1 Q. Once you got into the -- onto the<br/>2 production floor, how long did it take<br/>3 you to put on this equipment?<br/>4 A. I don't know.<br/>5 Q. Could you put it on while you were<br/>6 walking?<br/>7 A. No, sir.<br/>8 Q. Did some people put it on while they<br/>9 were walking?<br/>10 A. No, sir, not that -- I mean, no, sir,<br/>11 not that I recall.<br/>12 Q. Well, explain to me how you put it on.<br/>13 A. I would stand at the -- where we hang<br/>14 it at and put it on right there.<br/>15 Q. So you had hangers?<br/>16 A. Yes, sir.<br/>17 Q. And you stood at the hanger and put it<br/>18 on?<br/>19 A. Yes, sir, at the table.<br/>20 Q. Pardon?<br/>21 A. They had a table right there, too.<br/>22 Q. Did you have to wait to get a hanger?<br/>23 A. No, sir.</p>                        | <p style="text-align: right;">36</p> <p>1 the boots.<br/>2 Q. Were the boots sanitized as you walked<br/>3 in or did you have to do that<br/>4 separately somehow?<br/>5 A. I know before I left they put a -- I<br/>6 don't know what you call it -- a thing<br/>7 where they spray the sanitizer, but<br/>8 they wasn't doing it at first, when I<br/>9 first got there.<br/>10 Q. Did this happen when Equity had the<br/>11 plant?<br/>12 A. Not when they first got it.<br/>13 Q. But sometime after that, they put it in<br/>14 this system where -- and am I correct<br/>15 that all you had to do is walk through<br/>16 the area and your boots would be<br/>17 sanitized? Was that your<br/>18 understanding?<br/>19 A. The stuff would come out the little<br/>20 pipe.<br/>21 Q. You didn't have to stop, did you?<br/>22 A. Yeah. If you want to get it all over<br/>23 your boot. I mean . . .</p> |
| <p style="text-align: right;">35</p> <p>1 Q. And you don't know how long it took you<br/>2 to put this stuff on?<br/>3 A. No, sir.<br/>4 Q. One minute, two minutes?<br/>5 A. I don't know.<br/>6 Q. Did it take you as long as fifteen<br/>7 minutes?<br/>8 A. I don't know.<br/>9 Q. You have no estimate whatsoever?<br/>10 A. No, sir.<br/>11 Q. Before you stepped up -- and we're<br/>12 still talking about the period of time<br/>13 in the morning when you started your<br/>14 shift -- were you required to perform<br/>15 any washing activities before you<br/>16 stepped up onto the line?<br/>17 A. Yes, sir.<br/>18 Q. What did you wash?<br/>19 A. My apron, my gloves, and my boots.<br/>20 Q. And how long -- describe for me what<br/>21 you did.<br/>22 A. Used soap and washed the gloves off,<br/>23 apron, and sprayed sanitizer water on</p> | <p style="text-align: right;">37</p> <p>1 Q. You did have to stop?<br/>2 A. Uh-huh.<br/>3 Q. And how long did that take?<br/>4 A. I don't know how long it took.<br/>5 Q. Few seconds?<br/>6 A. I don't know.<br/>7 Q. You don't know?<br/>8 A. Uh-uh.<br/>9 Q. I think you answered this. I apologize<br/>10 if you did. But you don't recall how<br/>11 long it took you to walk from the break<br/>12 room to the evisceration production<br/>13 floor; is that correct?<br/>14 A. No, sir.<br/>15 Q. You do not recall?<br/>16 A. Oh, no, I don't recall.<br/>17 Q. Did you have lockers for use while you<br/>18 were working at -- when the plant was<br/>19 owned by Equity?<br/>20 A. Yes, sir.<br/>21 Q. And what did you use the lockers for?<br/>22 A. To put the equipment in. We didn't<br/>23 have lockers at first.</p>   |

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| <p style="text-align: right;">38</p> <p>1 Q. When did you get lockers?</p> <p>2 A. I don't -- I don't know when, but we</p> <p>3 didn't have them at first.</p> <p>4 Q. Did you have them when CP operated the</p> <p>5 plant?</p> <p>6 A. No, sir.</p> <p>7 Q. So can I assume that the lockers were</p> <p>8 put in when Equity took over?</p> <p>9 A. Yes, sir, but not at first.</p> <p>10 Q. Okay. You say you stored equipment in</p> <p>11 the lockers?</p> <p>12 A. Yes, sir.</p> <p>13 Q. What equipment did you store?</p> <p>14 A. My gloves and -- my cotton gloves.</p> <p>15 Q. What else, if anything?</p> <p>16 A. That's it.</p> <p>17 Q. So you just used your locker to put the</p> <p>18 cotton gloves in?</p> <p>19 A. That's it.</p> <p>20 Q. Take me through now what you did when</p> <p>21 it was your break time from the time</p> <p>22 you left your workstation till you got</p> <p>23 to the break room.</p> | <p style="text-align: right;">40</p> <p>1 A. Yes, sir.</p> <p>2 Q. So I gather that when you went into the</p> <p>3 break room, you kept your boots on and</p> <p>4 your hair net and your earplugs?</p> <p>5 A. Yes, sir.</p> <p>6 Q. How many wash stations were available</p> <p>7 to you on the evisceration production</p> <p>8 floor?</p> <p>9 A. One.</p> <p>10 Q. One for the whole department?</p> <p>11 A. It was, like, doubled.</p> <p>12 Q. How many people could use the wash</p> <p>13 station at once?</p> <p>14 A. Say about three.</p> <p>15 Q. Can you estimate to me the amount of</p> <p>16 time it took from the time you left</p> <p>17 your workstation on break to get to the</p> <p>18 break room?</p> <p>19 A. No, sir.</p> <p>20 Q. No estimation at all?</p> <p>21 A. No, sir.</p> <p>22 Q. Did all the employees that you were</p> <p>23 able to observe wash their plastic</p>  |
| <p style="text-align: right;">39</p> <p>1 A. I walked to the sanitizer station,</p> <p>2 washed down.</p> <p>3 Q. What did you wash?</p> <p>4 A. My apron, my hands, my gloves, my</p> <p>5 boots -- I sprayed my boots off -- and</p> <p>6 walked to the hanging thing and hang my</p> <p>7 stuff up.</p> <p>8 Q. And what did you hang up?</p> <p>9 A. My apron, smock, gloves. That's --</p> <p>10 that's it that I can remember.</p> <p>11 Q. Did you hang up your sleeves?</p> <p>12 A. Sleeves.</p> <p>13 Q. Did you hang up your plastic arm</p> <p>14 guards?</p> <p>15 A. Yes.</p> <p>16 Q. Was it your understanding that you were</p> <p>17 not permitted to wear your smock out of</p> <p>18 the production floor area?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And was it your understanding that you</p> <p>21 were not permitted to wear your apron</p> <p>22 and the sleeves outside of the</p> <p>23 production area?</p>     | <p style="text-align: right;">41</p> <p>1 apron and sleeves off before they left</p> <p>2 for break?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Was that a requirement?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And how were these requirements as to</p> <p>7 what you were to wear on and off the</p> <p>8 production floor and the washing and so</p> <p>9 forth, how were these requirements</p> <p>10 communicated to you?</p> <p>11 A. From the supervisor.</p> <p>12 Q. Okay. Let's do the process in reverse.</p> <p>13 Now take me from the break room back to</p> <p>14 your workstation. Tell me what you did</p> <p>15 when the break was over, what you had</p> <p>16 to do to get back to your workstation.</p> <p>17 A. Go to the production floor, put my</p> <p>18 equipment on, and walk to the station.</p> <p>19 Q. When you went back from break, you</p> <p>20 didn't have to wash your equipment</p> <p>21 again, did you?</p> <p>22 A. If you wanted to, you could.</p> <p>23 Q. But it wasn't a requirement?</p> |

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| <p style="text-align: right;">42</p> <p>1 A. No.</p> <p>2 Q. Can you estimate to me the amount of</p> <p>3 time it took from the time you left the</p> <p>4 break room to when you were at your</p> <p>5 workstation following the end of your</p> <p>6 break?</p> <p>7 A. No, sir.</p> <p>8 Q. You don't have any estimate whatsoever?</p> <p>9 A. No, sir.</p> <p>10 Q. Let's go to the end of the shift now.</p> <p>11 Take me from what you did from the time</p> <p>12 your shift ends, or ended, until you</p> <p>13 left the plant. What did you do?</p> <p>14 A. Have to wait in line.</p> <p>15 Q. What line were you waiting in?</p> <p>16 A. At the wash station. Wash my gloves</p> <p>17 off, wash my apron off, spray my boots</p> <p>18 off, take my stuff off, and put my</p> <p>19 gloves in the locker. And I take</p> <p>20 everything else home with me and wash</p> <p>21 it in the wash machine.</p> <p>22 Q. So you took the smock home and washed</p> <p>23 it?</p> | <p style="text-align: right;">44</p> <p>1 Q. You cannot estimate it at all?</p> <p>2 A. No, sir.</p> <p>3 Q. What is your understanding as to how</p> <p>4 the company kept track of the hours you</p> <p>5 worked during the time you worked there</p> <p>6 for Equity?</p> <p>7 A. By a card they had.</p> <p>8 Q. Pardon?</p> <p>9 A. A card they had to swipe.</p> <p>10 Q. Did you say a card they had?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Who's "they"?</p> <p>13 A. Supervisors.</p> <p>14 Q. And what would the supervisor do with</p> <p>15 the card?</p> <p>16 A. They would swipe it.</p> <p>17 Q. And what did that indicate to you?</p> <p>18 A. The time you was in and time you was</p> <p>19 out.</p> <p>20 Q. And was it your understanding that you</p> <p>21 were to be paid for the time you worked</p> <p>22 between when the supervisor started --</p> <p>23 A. Yes, sir.</p>              |
| <p style="text-align: right;">43</p> <p>1 A. (Witness nods head.)</p> <p>2 Q. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. You have to say yes. She can't take</p> <p>5 down a shake of the head. Sorry.</p> <p>6 A. Yes, sir.</p> <p>7 Q. So you take the smock home to wash;</p> <p>8 correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And you took the plastic sleeves home</p> <p>11 to wash?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And the plastic arm guards?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Did you do this during the CP period</p> <p>16 and the Equity period?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And then did you clock out?</p> <p>19 A. Yes, sir.</p> <p>20 Q. How long would it take you from the</p> <p>21 time you stepped off your workstation</p> <p>22 to when you walked out the door?</p> <p>23 A. I don't know.</p>   | <p style="text-align: right;">45</p> <p>1 Q. -- by swiping his card?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And what was your understanding as to</p> <p>4 when the time ended for which you were</p> <p>5 to be paid? Did the supervisor swipe</p> <p>6 his card again?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And you understood that that was the</p> <p>9 end of the time that you were to be</p> <p>10 paid?</p> <p>11 A. Yes, sir.</p> <p>12 Q. How did you have this understanding?</p> <p>13 A. When I became a shift leader, I seen</p> <p>14 the card.</p> <p>15 Q. And did you talk to anybody about what</p> <p>16 you were seeing?</p> <p>17 A. No, sir.</p> <p>18 Q. You just assumed that that was the</p> <p>19 start of when you were to be paid and</p> <p>20 the finish?</p> <p>21 A. Yes, sir.</p> <p>22 Q. During the period that you worked there</p> <p>23 for either CP or Equity, did you ever</p> |

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| <p style="text-align: right;">46</p> <p>1 go to your supervisor or the payroll</p> <p>2 department to complain about any errors</p> <p>3 you thought were in your checks?</p> <p>4 A. No, sir.</p> <p>5 Q. How often were you paid?</p> <p>6 A. Every week.</p> <p>7 Q. When you got your paycheck, did you</p> <p>8 take a look -- did your paycheck have a</p> <p>9 stub on it that had the hours worked?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did you review that information when</p> <p>12 you got your paycheck?</p> <p>13 A. Yes, sir.</p> <p>14 Q. At any time when you worked for CP or</p> <p>15 Equity, did you have reason to think</p> <p>16 that, hey, the paychecks that were</p> <p>17 issued to you were inaccurate?</p> <p>18 A. No, sir.</p> <p>19 Q. Did you keep track of the hours you</p> <p>20 worked every day, personally?</p> <p>21 A. No, sir.</p> <p>22 Q. During the time that you worked at</p> <p>23 either -- when the plant was either</p> | <p style="text-align: right;">48</p> <p>1 Q. And were you paid time and a half for</p> <p>2 that overtime?</p> <p>3 A. I don't really know.</p> <p>4 Q. Did you ever have any complaints about</p> <p>5 the overtime pay that you got or how it</p> <p>6 was computed?</p> <p>7 A. No, sir.</p> <p>8 Q. Have you ever filed a grievance with</p> <p>9 the union about any pay issues?</p> <p>10 A. No, sir.</p> <p>11 Q. You indicated when we started, when I</p> <p>12 asked you some questions about the</p> <p>13 union, you don't recollect whether you</p> <p>14 were a member of the union. Do you</p> <p>15 recall that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. I have --</p> <p>18 MR. FRY: John, I don't feel</p> <p>19 compelled to mark this as an exhibit.</p> <p>20 I just have a question off of it. If</p> <p>21 you would like me to mark it as an</p> <p>22 exhibit, I will. It's her responses to</p> <p>23 interrogatories.</p>  |
| <p style="text-align: right;">47</p> <p>1 owned by Equity or CP, did you ever</p> <p>2 keep any kind of diary or a notebook or</p> <p>3 notes showing what you believed to be</p> <p>4 the hours that you worked?</p> <p>5 A. No, sir.</p> <p>6 Q. Do you know of anyone that you worked</p> <p>7 with that did keep any such records?</p> <p>8 A. No, sir.</p> <p>9 Q. Have you made any calculations as to</p> <p>10 the time that you think you worked but</p> <p>11 you weren't paid for?</p> <p>12 A. No, sir.</p> <p>13 Q. During the time that you were working</p> <p>14 at the plant, again, either when it was</p> <p>15 owned by CP or Equity, were you ever</p> <p>16 required or were you ever asked to work</p> <p>17 overtime?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And when this occurred, were you paid</p> <p>20 for the overtime?</p> <p>21 A. Yes, sir, I was paid.</p> <p>22 Q. Pardon?</p> <p>23 A. Yes, sir.</p>                                      | <p style="text-align: right;">49</p> <p>1 MR. STEENSLAND: No. As long</p> <p>2 as she can look at it, that's fine.</p> <p>3 MR. FRY: She can look at it.</p> <p>4 Q. Ms. Delbridge --</p> <p>5 MR. FRY: Actually, why don't</p> <p>6 we go ahead and mark it.</p> <p>7 (Defendant's Exhibit 1 was</p> <p>8 marked for identification.)</p> <p>9 Q. Ms. Delbridge, I'm showing you what --</p> <p>10 a document that we marked as Delbridge</p> <p>11 Exhibit 1, and it is a copy of your</p> <p>12 responses to some interrogatories that</p> <p>13 the company served on your lawyers.</p> <p>14 And just let me ask you to flip to the</p> <p>15 last page. And is that your signature</p> <p>16 there at the bottom?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Take a minute and look through this</p> <p>19 document.</p> <p>20 (Witness reviews document.)</p> <p>21 Q. Have you seen this document before?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Do you recollect reviewing it before</p> |



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| <p style="text-align: right;">50</p> <p>1 you signed the last page?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And do you recollect that everything</p> <p>4 was accurate when you reviewed it?</p> <p>5 A. Yes, sir.</p> <p>6 Q. I just want to refer you to only one</p> <p>7 question, and that is Interrogatory</p> <p>8 No. 15. It's on page 9. And that</p> <p>9 interrogatory requested you to identify</p> <p>10 each and every individual who</p> <p>11 represents employees at the plant for</p> <p>12 purposes of collective bargaining,</p> <p>13 including the union which represents</p> <p>14 those employees, and it goes on. Do</p> <p>15 you see that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And in your response, we see, quote,</p> <p>18 Plaintiff does remember the union</p> <p>19 representative Jackie Davis who</p> <p>20 represented the employees at the plant</p> <p>21 for purposes of collective bargaining,</p> <p>22 close quote. Do you see that?</p> <p>23 A. Yes, sir.</p> | <p style="text-align: right;">52</p> <p>1 deposition that you used a chain</p> <p>2 glove --</p> <p>3 A. Yes, sir.</p> <p>4 Q. -- in your job in the evis department.</p> <p>5 How did you obtain that each day?</p> <p>6 A. They would collect them.</p> <p>7 Q. How did you get it in the day? When</p> <p>8 you started the day, how would it be</p> <p>9 provided to you?</p> <p>10 A. The shift -- the shift leader or the</p> <p>11 supervisor gave it to us.</p> <p>12 Q. Did they give it to you while you were</p> <p>13 on the line?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And then they would collect them when</p> <p>16 you were leaving the line?</p> <p>17 A. Yes, sir.</p> <p>18 Q. So you weren't responsible in any way</p> <p>19 for maintaining that chain glove?</p> <p>20 A. No, sir.</p> <p>21 Q. During the time that you -- the whole</p> <p>22 time you worked at the plant, did you</p> <p>23 ever complain to any supervisor about</p> |
| <p style="text-align: right;">51</p> <p>1 Q. Does that refresh your recollection</p> <p>2 that there was a union present in this</p> <p>3 plant?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And let me ask you again, were you a</p> <p>6 member of the union, to your knowledge?</p> <p>7 A. I can't remember if I was.</p> <p>8 Q. You don't remember?</p> <p>9 A. No.</p> <p>10 Q. How did you know that Jackie Davis was</p> <p>11 a union member?</p> <p>12 A. An employee told me.</p> <p>13 Q. When did an employee tell you that?</p> <p>14 A. I can't remember when, but . . .</p> <p>15 Q. Was it when you were working there?</p> <p>16 A. Yes, sir.</p> <p>17 Q. To your -- were you aware of a lawsuit</p> <p>18 that was brought on behalf of Jackie</p> <p>19 Davis and another person against CP?</p> <p>20 A. No, sir.</p> <p>21 Q. You have no knowledge of that?</p> <p>22 A. No, sir.</p> <p>23 Q. You told me, I think, earlier in this</p>   | <p style="text-align: right;">53</p> <p>1 any pay issues?</p> <p>2 A. No, sir.</p> <p>3 Q. Have you ever filed any claim with the</p> <p>4 department of labor, the U.S.</p> <p>5 Department of Labor, or any other</p> <p>6 governmental agency with respect to any</p> <p>7 wage claim in connection with your</p> <p>8 employment at CP or Equity?</p> <p>9 A. Not that I can think of.</p> <p>10 Q. I understand that you were ultimately</p> <p>11 terminated for violations of the point</p> <p>12 or attendance system. Besides that,</p> <p>13 were you ever subject to any other</p> <p>14 disciplinary action by either CP or</p> <p>15 Equity?</p> <p>16 A. No, sir, that I can think.</p> <p>17 Q. Thank you.</p> <p>18 MR. FRY: That's all I have.</p> <p>19 MR. UNDERWOOD: All right.</p> <p>20 That's it.</p> <p>21 (The deposition of Laurie Delbridge</p> <p>22 concluded at 11:08 a.m. on May 21,</p> <p>23 2008.)</p>                         |

## MERRILL LEGAL SOLUTIONS

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1       \* \* \* \* \*

2       REPORTER'S CERTIFICATE

3       \* \* \* \* \*

4       STATE OF ALABAMA

5       COUNTY OF MONTGOMERY

6       I do hereby certify that the above

7       and foregoing transcript was taken down

8       by me in stenotype, and the questions

9       and answers thereto were transcribed by

10      means of computer-aided transcription,

11      and that the foregoing represents a

12      true and correct transcript of the

13      testimony given by said witness.

14      I further certify that I am neither

15      of counsel, nor any relation to the

16      parties to the action, nor am I anywise

17      interested in the result of said case.

18

19

20

21      \_\_\_\_\_  
Bridgette W. Mitchell,  
22      Certified Court Reporter and  
Commissioner for the State of  
Alabama at Large  
23      ACCR No. 231 - Expires 9/30/08  
MY COMMISSION EXPIRES 1/25/2010

**TAB 15**



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,

Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,

Defendant.

\* \* \* \* \*

DEPOSITION OF KENNETH FORD, taken  
pursuant to notice and stipulation on  
behalf of the Defendant, at Williams,  
Pothoff, Williams & Smith, 125 South  
Orange Avenue, Eufaula, Alabama, before  
Bridgette Mitchell, Shorthand Reporter  
and Notary Public in and for the State  
of Alabama at Large, on May 21, 2008,  
commencing at 3:25 p.m.

## MERRILL LEGAL SOLUTIONS

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|   |   |
|---|---|
| <p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3</p> <p>4 FOR THE PLAINTIFFS:</p> <p>5 Carl E. Underwood, III, Esquire</p> <p>6 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>7 163 W. Main Street</p> <p>8 Dothan, Alabama 36301</p> <p>9</p> <p>10</p> <p>11 FOR THE DEFENDANT:</p> <p>12 Gary D. Fry, Esquire</p> <p>13 PELINO &amp; LENTZ</p> <p>14 One Liberty Place</p> <p>15 Thirty-second Floor</p> <p>16 Philadelphia, Pennsylvania 19103</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 KENNETH FORD is hereby waived and that</p> <p>6 said deposition may be introduced at</p> <p>7 the trial of this case or used in any</p> <p>8 other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21</p> <p>22 EXHIBIT Page</p> <p>23 DX-1 Declaration 13</p> |
| <p style="text-align: right;">3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of KENNETH FORD is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p style="text-align: right;">5</p> <p>1 KENNETH FORD, having first been</p> <p>2 duly sworn or affirmed to speak the</p> <p>3 truth, the whole truth, and nothing but</p> <p>4 the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Mr. Ford, you sat through Ms. Glenn's</p> <p>8 deposition we just held; correct?</p> <p>9 A. Right.</p> <p>10 Q. And did you hear my instructions to</p> <p>11 her?</p> <p>12 A. I did.</p> <p>13 Q. And did you understand them?</p> <p>14 A. I did.</p> <p>15 Q. And are they okay with you?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. We can save some time. What's</p> <p>18 your home address?</p> <p>19 A. 20 Stevens Road, Clayton, Alabama.</p> <p>20 Q. And your date of birth?</p> <p>21 A. Fourth month, 27th day, '63.</p> <p>22 Q. Are you currently employed?</p> <p>23 A. I am.</p>              |

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|--|--|
| <p style="text-align: right;">6</p> <p>1 Q. By whom?</p> <p>2 A. Equity.</p> <p>3 Q. How long have you been employed by</p> <p>4 Equity?</p> <p>5 A. I was employed with them March the 9th</p> <p>6 of 2001.</p> <p>7 Q. So you were employed at the Baker Hill</p> <p>8 plant when CP ran it?</p> <p>9 A. Right.</p> <p>10 Q. And have you been employed continuously</p> <p>11 since then at that plant?</p> <p>12 A. I have.</p> <p>13 Q. What is your current job at the plant?</p> <p>14 A. I am what they call certified as a</p> <p>15 back-up killer.</p> <p>16 Q. Back-up killer?</p> <p>17 A. Right.</p> <p>18 Q. How long have you had that job?</p> <p>19 A. Ever since I've been employed with</p> <p>20 them.</p> <p>21 Q. So you've been a back-up killer since</p> <p>22 March of '01?</p> <p>23 A. Right.</p>  | <p style="text-align: right;">8</p> <p>1 thing I can tell you is I hung birds</p> <p>2 when they needed me to. When I was</p> <p>3 approached by my supervisor and asked</p> <p>4 to go to live hanger and asked to</p> <p>5 rotate out, that's wat I did so ...</p> <p>6 Q. Okay. How often does that happen?</p> <p>7 A. That was pretty frequently at one</p> <p>8 point.</p> <p>9 Q. Was it earlier that it was more</p> <p>10 frequent?</p> <p>11 A. It was pretty frequent. Like I said,</p> <p>12 when they're short of hangers, that's</p> <p>13 when I was asked to do so. That's when</p> <p>14 I did the job -- I performed the job.</p> <p>15 Q. Have you worked different shifts?</p> <p>16 A. Only first shift.</p> <p>17 Q. Only first shift?</p> <p>18 A. Only first shift.</p> <p>19 Q. And what are your hours?</p> <p>20 A. From -- I have to clock in at 5:30, and</p> <p>21 ten minutes to six we have to be on the</p> <p>22 line dressed and ready to work.</p> <p>23 Q. So you -- when you say you clock in,</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Through CP and Equity? That's all you</p> <p>2 ever did there? You work as a back-up</p> <p>3 killer?</p> <p>4 A. Well, they rotated us out to -- from</p> <p>5 back-up killer to live hanger, and I've</p> <p>6 hung birds also.</p> <p>7 Q. Okay. So you're also in live hang?</p> <p>8 A. Right.</p> <p>9 Q. Now, were there certain periods of time</p> <p>10 that you did live hang only?</p> <p>11 A. Only when they were short-handed.</p> <p>12 Q. Okay. So generally you were a back-up</p> <p>13 killer, and when they were short handed</p> <p>14 you did live hang?</p> <p>15 A. Right.</p> <p>16 Q. And can you put any estimation on the</p> <p>17 amount of time over this seven-year</p> <p>18 period that you might have been doing</p> <p>19 live hang?</p> <p>20 A. I cannot.</p> <p>21 Q. Was it a small percentage or a big</p> <p>22 percentage or half and half?</p> <p>23 A. Well, I can tell you that -- the only</p> | <p style="text-align: right;">9</p> <p>1 you swipe in?</p> <p>2 A. Swipe in at 5:30, swipe my timecard.</p> <p>3 Q. And you're required to be on the line</p> <p>4 at 5:50?</p> <p>5 A. Right.</p> <p>6 Q. And is that for the back-up killing</p> <p>7 position?</p> <p>8 A. Back-up killer.</p> <p>9 Q. What about live hang?</p> <p>10 A. Like I said, only when they asked for</p> <p>11 my assistance in live hang is the only</p> <p>12 time I performed that duty.</p> <p>13 Q. Were there days when you started live</p> <p>14 hang, started working in live hang?</p> <p>15 A. Yes, it was.</p> <p>16 Q. And was it the same time frame? You</p> <p>17 had -- you clocked in at 5:30 and you</p> <p>18 had to be on the line at 5:50?</p> <p>19 A. Uh-huh. (Witness nods head.)</p> <p>20 Q. And you worked no other shifts?</p> <p>21 A. No other shifts.</p> <p>22 Q. I take it as a back-up killer, you did</p> <p>23 what the job description says, you --</p>  |

|   |   |
|---|---|
| <p style="text-align: right;">10</p> <p>1 A. Back-up kill.</p> <p>2 Q. If the machine didn't do it, you had to</p> <p>3 do it?</p> <p>4 A. That's what I did.</p> <p>5 Q. And live hang, you took the birds and</p> <p>6 hung them?</p> <p>7 A. Hang them by their feet.</p> <p>8 Q. And who was your supervisor for these</p> <p>9 positions?</p> <p>10 A. Dee Green.</p> <p>11 Q. Pardon?</p> <p>12 A. Dee Green.</p> <p>13 Q. Dave?</p> <p>14 A. Dee Green. You want to know my present</p> <p>15 supervisor or the supervisor that I had</p> <p>16 when I first started?</p> <p>17 Q. No. Who's your present supervisor?</p> <p>18 A. James McElroy.</p> <p>19 Q. And how long has he been your</p> <p>20 supervisor?</p> <p>21 A. Oh, I would say two to three months.</p> <p>22 Q. And who was your supervisor before</p> <p>23 that?</p> | <p style="text-align: right;">12</p> <p>1 A. I learned it through -- from my</p> <p>2 coworkers, fellow employees around the</p> <p>3 plant.</p> <p>4 Q. And what did they tell you?</p> <p>5 A. What I heard was -- is that the poultry</p> <p>6 plants in the southeastern district</p> <p>7 area was -- was being sued for under --</p> <p>8 under wages.</p> <p>9 Q. And then you signed an opt-in sheet?</p> <p>10 A. Do what, now?</p> <p>11 Q. You signed a sheet to join in; is that</p> <p>12 correct?</p> <p>13 A. Uh-huh. Yes.</p> <p>14 Q. On the basis of what you had heard?</p> <p>15 A. Yes.</p> <p>16 Q. And what's your understanding of what</p> <p>17 your claim is?</p> <p>18 A. My claim is -- is not being paid for my</p> <p>19 proper hours such as my break -- my</p> <p>20 break period when I -- when I was</p> <p>21 relieved from the work area to go to</p> <p>22 break and when I -- also when I come</p> <p>23 back from break, go back to work.</p> |
| <p style="text-align: right;">11</p> <p>1 A. Dee Green.</p> <p>2 Q. Dee?</p> <p>3 A. Dee Green.</p> <p>4 Q. And how long was -- is it Mr. Green or</p> <p>5 Ms. --</p> <p>6 A. This is a lady.</p> <p>7 Q. Lady, Dee. How long was Ms. Green your</p> <p>8 supervisor?</p> <p>9 A. Oh, she was my -- she was my supervisor</p> <p>10 for, like, five years.</p> <p>11 Q. And what's your present rate of pay?</p> <p>12 A. My present rate of pay at this moment?</p> <p>13 Q. Yeah.</p> <p>14 A. I make 10 -- 10.95 at this present</p> <p>15 time.</p> <p>16 Q. And when you started, how much did you</p> <p>17 make?</p> <p>18 A. I started out making 6.38.</p> <p>19 Q. Now, you are a -- you have a claim in</p> <p>20 this lawsuit?</p> <p>21 A. I do.</p> <p>22 Q. And how did you first learn about this</p> <p>23 lawsuit?</p>       | <p style="text-align: right;">13</p> <p>1 Q. Are you a member of the union?</p> <p>2 A. I am not.</p> <p>3 (Defendant's Exhibit 1 was marked</p> <p>4 for identification.)</p> <p>5 Q. Mr. Ford, we're showing you a document</p> <p>6 which we've marked as Exhibit Ford 1,</p> <p>7 and it's headed declaration. And it</p> <p>8 appears to be a declaration that you</p> <p>9 made. Would you take a minute and</p> <p>10 review the form for me, please?</p> <p>11 (Witness reviews document.)</p> <p>12 Q. Okay?</p> <p>13 A. All right. Okay.</p> <p>14 Q. Okay. Is that your signature on page 3</p> <p>15 of this declaration, Mr. Ford?</p> <p>16 A. It is.</p> <p>17 Q. And do you recall signing this</p> <p>18 document?</p> <p>19 A. I don't.</p> <p>20 Q. Do you -- well, I assume since you</p> <p>21 don't recall signing it, you don't</p> <p>22 recall reading it?</p> <p>23 A. I -- I don't recall signing it.</p>   |

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|---|--|
| <p style="text-align: right;">14</p> <p>1 Q. Do you recall reading it?</p> <p>2 A. At this present time, I don't.</p> <p>3 Q. You did not prepare this declaration,</p> <p>4 did you?</p> <p>5 A. No.</p> <p>6 Q. Let me refer you to paragraph 10 of</p> <p>7 your declaration. And I just want to</p> <p>8 read it into the record and then I have</p> <p>9 just a couple of questions about it.</p> <p>10 Paragraph 10 of your declaration dated</p> <p>11 February 23, 2007, reads as follows: I</p> <p>12 personally am aware that other and</p> <p>13 additional current and former hourly</p> <p>14 processing employees will join this</p> <p>15 litigation if they are given notice of</p> <p>16 it and an opportunity to join it,</p> <p>17 period. Numerous employees have</p> <p>18 expressed their desire to join this</p> <p>19 litigation but have not done so to date</p> <p>20 because of fear of retaliation by</p> <p>21 defendant and its managers, period. To</p> <p>22 that end, defendant and its managers</p> <p>23 have attempted to discourage and/or</p> | <p style="text-align: right;">16</p> <p>1 intimidation or discouragement or</p> <p>2 threat?</p> <p>3 A. I don't.</p> <p>4 Q. Did you review any papers before you</p> <p>5 came here today?</p> <p>6 A. Repeat that, sir. I didn't quite</p> <p>7 understand.</p> <p>8 Q. In preparation for coming here today,</p> <p>9 did you look at any papers, documents?</p> <p>10 A. I did not.</p> <p>11 Q. And you don't recall ever seeing this</p> <p>12 before?</p> <p>13 A. I can't recall at this time.</p> <p>14 Q. Did you speak with anyone concerning</p> <p>15 your appearance here today besides your</p> <p>16 attorneys?</p> <p>17 A. I did not.</p> <p>18 Q. As a back-up killer, what sort of items</p> <p>19 of clothing or equipment do you wear?</p> <p>20 A. Hair net, beard net, safety goggles,</p> <p>21 arm guard, chain knit gloves, cotton</p> <p>22 liners, rubber gloves, apron, rubber</p> <p>23 boots.</p> |
| <p style="text-align: right;">15</p> <p>1 intimidate my coworkers from joining</p> <p>2 this lawsuit by issuing both expressed</p> <p>3 and implied threats involving job</p> <p>4 security, period. Have I read it</p> <p>5 correctly?</p> <p>6 A. Yes.</p> <p>7 Q. This declaration in this paragraph</p> <p>8 states that numerous employees have</p> <p>9 expressed their desire to join this</p> <p>10 litigation but have not done so to date</p> <p>11 because of fear of retaliation by</p> <p>12 defendant and its managers. Do you</p> <p>13 know of such employees?</p> <p>14 A. I don't.</p> <p>15 Q. You do not?</p> <p>16 A. I don't.</p> <p>17 Q. This declaration also reads that the</p> <p>18 defendant, and that's Equity, and its</p> <p>19 managers have attempted to discourage</p> <p>20 or intimidate your coworkers from</p> <p>21 joining this lawsuit by issuing both</p> <p>22 express and implied threats involving</p> <p>23 job security. Do you know of any such</p>  | <p style="text-align: right;">17</p> <p>1 Q. Okay. I think I missed one in there.</p> <p>2 Let me go down the list. Hair net,</p> <p>3 beard net, goggles, glove liners and</p> <p>4 gloves?</p> <p>5 A. Uh-huh.</p> <p>6 Q. And apron?</p> <p>7 A. Uh-huh.</p> <p>8 Q. And boots?</p> <p>9 A. Right.</p> <p>10 Q. Anything else?</p> <p>11 A. Earplugs.</p> <p>12 Q. Earplugs. Anything else?</p> <p>13 A. Not that I can recollect.</p> <p>14 Q. Okay. You're not required to wear a</p> <p>15 smock?</p> <p>16 A. Yes, I do.</p> <p>17 Q. You do wear a smock?</p> <p>18 A. I do wear the smock.</p> <p>19 Q. You don't wear the plastic sleeves?</p> <p>20 A. I -- I can, but I don't.</p> <p>21 Q. It's up to you?</p> <p>22 A. It's up to me to wear that.</p> <p>23 Q. Are any of these other items optional</p>  |

|   |   |
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| <p style="text-align: right;">18</p> <p>1 to you?</p> <p>2 A. No. That stuff, your PPE equipment,</p> <p>3 you have to have.</p> <p>4 Q. Everything that you listed to me,</p> <p>5 you -- you're required to --</p> <p>6 A. You're required to wear that.</p> <p>7 Q. But you have the option to wear the</p> <p>8 plastic sleeves?</p> <p>9 A. Right.</p> <p>10 Q. Do you wear these same items of</p> <p>11 equipment and outerwear when you do</p> <p>12 live hang?</p> <p>13 A. I wear everything but the chain knit</p> <p>14 glove.</p> <p>15 Q. And when you do live hang, is it your</p> <p>16 understanding that everything that you</p> <p>17 wear is required?</p> <p>18 A. Correct.</p> <p>19 Q. Which of these items are issued to you</p> <p>20 by the company?</p> <p>21 A. Well, I get all of them from the supply</p> <p>22 area where we pick up our supplies at.</p> <p>23 Q. What about the boots?</p> | <p style="text-align: right;">20</p> <p>1 Q. When you aren't working, where do you</p> <p>2 store these items?</p> <p>3 A. They have a rack up on the wall which</p> <p>4 you use to hang your items. They put</p> <p>5 racks up on the wall.</p> <p>6 Q. In what area?</p> <p>7 A. In -- in the -- in the kill floor area</p> <p>8 where I work, and they have also in</p> <p>9 live hanging area.</p> <p>10 Q. Is the -- your job as a back-up killer,</p> <p>11 is that considered part of the</p> <p>12 evisceration department, if you know?</p> <p>13 A. No, it's not.</p> <p>14 Q. It's part -- what department do you</p> <p>15 work in?</p> <p>16 A. I work on the -- well, let me rephrase</p> <p>17 that. I don't know whether they</p> <p>18 consider that as a part of the</p> <p>19 evisceration area or not. I know I --</p> <p>20 I perform the job of back-up killer and</p> <p>21 live hanger.</p> <p>22 Q. But you keep your apron and -- do you</p> <p>23 use the plastic guards?</p> |
| <p style="text-align: right;">19</p> <p>1 A. The boots? The boots I purchase from</p> <p>2 them also.</p> <p>3 Q. Which of these items do you get on a</p> <p>4 daily basis?</p> <p>5 A. Rubber gloves, glove liners, beard</p> <p>6 nets, hair nets.</p> <p>7 Q. Those are the only things you get on a</p> <p>8 daily basis?</p> <p>9 A. Right.</p> <p>10 Q. How often do you get your smock?</p> <p>11 A. I get the smock on a daily basis.</p> <p>12 Excuse me.</p> <p>13 Q. No problem. What about the apron?</p> <p>14 A. I sanitize my apron and use it over</p> <p>15 repeatedly.</p> <p>16 Q. Can you wear any of these things from</p> <p>17 home?</p> <p>18 A. You can wear your boots, but you have</p> <p>19 to sanitize them before you enter your</p> <p>20 work area.</p> <p>21 Q. Do you have to sanitize your boots</p> <p>22 before you go into live hang?</p> <p>23 A. No, you don't.</p>               | <p style="text-align: right;">21</p> <p>1 A. I do, the arm guard. Did I not mention</p> <p>2 that?</p> <p>3 Q. I think you might have. I may have</p> <p>4 neglected to write it down. The apron</p> <p>5 and the arm guards, where do you keep</p> <p>6 them?</p> <p>7 A. I hang them on the wall when I'm --</p> <p>8 when I'm not wearing them.</p> <p>9 Q. So you don't have a locker?</p> <p>10 A. They issued us a locker, but I -- I</p> <p>11 have a bag, a grip, that I carry to</p> <p>12 work every day and, like I said, I hang</p> <p>13 them in the break room on the -- on</p> <p>14 the -- we have a rack that we hang the</p> <p>15 stuff on.</p> <p>16 Q. Now, your -- your job as a back-up</p> <p>17 killer, you have to use a knife;</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. And that's why you use the safety --</p> <p>21 the arm guards.</p> <p>22 A. Arm guard and the chain knit glove.</p> <p>23 Q. And the glove. When you do live hang,</p>                    |



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| <p style="text-align: right;">22</p> <p>1 you use the guards because the chickens<br/>2 can claw you?<br/>3 A. Right. I use the -- the guards to<br/>4 protect my arms.<br/>5 Q. But you don't use the chain glove?<br/>6 A. Don't use the chain glove.<br/>7 Q. Do you use any other tools or equipment<br/>8 in performing your jobs as back-up<br/>9 killer or live hanger?<br/>10 A. I don't.<br/>11 Q. Where do you put on the smock, the<br/>12 apron, and the guards and the other<br/>13 things that you put on in the morning?<br/>14 A. Well, we have what they call live<br/>15 hanging break room, and that's where I<br/>16 put on my working gear at, my PPE<br/>17 equipment.<br/>18 Q. When you have to go to the supply room<br/>19 to pick up some of these items in the<br/>20 morning, is there a line?<br/>21 A. Usually, it is.<br/>22 Q. And how long do you typically have to<br/>23 wait?</p> | <p style="text-align: right;">24</p> <p>1 A. When do I put it on?<br/>2 Q. Yeah.<br/>3 A. Before I -- before I attempt to do my<br/>4 job.<br/>5 Q. Can you -- are you familiar with any of<br/>6 the routines with regards to what goes<br/>7 on in evisceration and debone?<br/>8 A. I know some of the things that go on.<br/>9 I'm familiar with some of the things<br/>10 that go on over there.<br/>11 Q. Are you familiar with the fact that<br/>12 they cannot put on their smock, for<br/>13 instance, in their break rooms?<br/>14 A. I -- I couldn't say because I don't --<br/>15 I don't work in that area.<br/>16 Q. But you are permitted to put your smock<br/>17 and your apron and everything else on<br/>18 in your break room?<br/>19 A. I am.<br/>20 Q. Okay. And when do you do that?<br/>21 A. Before I get ready to perform my job.<br/>22 Q. And do you do it right before you start<br/>23 working on the line or do you do it</p>           |
| <p style="text-align: right;">23</p> <p>1 A. It just depends on how many people is<br/>2 in front of you when you get there.<br/>3 Q. Do you usually get there before --<br/>4 strike that.<br/>5 Do you start -- when you work live<br/>6 hang, do you usually start before the<br/>7 evisceration people start because<br/>8 you're the first guy in the line?<br/>9 A. Yes, you have to start before they<br/>10 start.<br/>11 Q. So you have to be ready before they go;<br/>12 correct?<br/>13 A. Correct.<br/>14 Q. So you put your smock on in the live<br/>15 hang break room?<br/>16 A. Correct.<br/>17 Q. And that's where you put the apron on?<br/>18 A. Correct.<br/>19 Q. And the gloves?<br/>20 A. Correct.<br/>21 Q. And all that other stuff?<br/>22 A. Correct.<br/>23 Q. And when do you put this stuff on?</p>   | <p style="text-align: right;">25</p> <p>1 when you first get to work and then sit<br/>2 around or, you know, can you give me a<br/>3 time frame?<br/>4 A. I cannot give you a time frame.<br/>5 Q. Okay. Now, your shift starts at 5:30?<br/>6 A. Right. I swipe in at 5:30.<br/>7 Q. And you're supposed to be on the line<br/>8 at 5:30?<br/>9 A. I'm supposed to -- I swipe in at 5:30.<br/>10 I've got to be on the job site at 5:30.<br/>11 At ten minutes to six, I have to be in<br/>12 my designated work area on the line<br/>13 getting ready to kill birds.<br/>14 Q. What do you do from 5:30 to 5:50?<br/>15 A. 5:30 to 5:50? By that time I'm walking<br/>16 from the area where I pick up my<br/>17 supplies at, got to walk to my<br/>18 designated work area.<br/>19 Q. Okay. We'll get to that in a second.<br/>20 How many breaks do you get a day?<br/>21 A. Get two.<br/>22 Q. For how long?<br/>23 A. Thirty-minute break. Two thirty-minute</p> |

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| <p style="text-align: right;">26</p> <p>1 breaks a day.</p> <p>2 Q. And it's your understanding your breaks</p> <p>3 are not paid?</p> <p>4 A. Excuse me?</p> <p>5 Q. Your breaks are unpaid?</p> <p>6 A. Well, we don't -- if that's what you</p> <p>7 mean, we don't clock out to go to</p> <p>8 break.</p> <p>9 Q. What's your understanding as to whether</p> <p>10 or not you're paid for your breaks?</p> <p>11 A. Excuse me. Could you repeat that?</p> <p>12 Q. Your understanding, do you believe to</p> <p>13 be -- that you are paid for your</p> <p>14 breaks?</p> <p>15 A. Well, like I say, I know I get thirty</p> <p>16 minutes for a break and I -- I do forty</p> <p>17 hours a week.</p> <p>18 Q. Okay. How do you know when it's time</p> <p>19 for you to take a break?</p> <p>20 A. With my position, the job that I</p> <p>21 perform, when the birds coming from --</p> <p>22 stop coming from down in the basement</p> <p>23 to me, then I know it's time to go to</p> | <p style="text-align: right;">28</p> <p>1 to be there at 5:30. Sometimes it</p> <p>2 might be 5:32 or 5:35.</p> <p>3 Q. And that's what time you drive in the</p> <p>4 parking lot?</p> <p>5 A. That's -- that's not what time I drive</p> <p>6 in the parking lot, but that's the time</p> <p>7 I'm supposed to be clocked in on my --</p> <p>8 I swipe in at 5:30.</p> <p>9 Q. And where do you swipe in at?</p> <p>10 A. At the time clock in -- in the break</p> <p>11 room.</p> <p>12 Q. In order to get into the plant, do you</p> <p>13 have to clear any security?</p> <p>14 A. Well, we come through the gates at the</p> <p>15 entrance of the plant.</p> <p>16 Q. Do you have to stop?</p> <p>17 A. No. We got a decal, a parking decal,</p> <p>18 on the car, the windshield of the car</p> <p>19 in the corner. And they look and see</p> <p>20 the decal and know you're employed with</p> <p>21 Equity, you go in.</p> <p>22 Q. When you leave at the end of the day,</p> <p>23 do you have to pass through any</p> |
| <p style="text-align: right;">27</p> <p>1 break.</p> <p>2 Q. Okay. That's when you're working the</p> <p>3 killer, back-up killer position?</p> <p>4 A. Back-up killer.</p> <p>5 Q. When you're working live hang, how do</p> <p>6 you know it's time to go on break?</p> <p>7 A. The line leader lets us know that it's</p> <p>8 time to go to break.</p> <p>9 Q. Since you're the first -- nothing can</p> <p>10 happen without you putting those birds</p> <p>11 on the hook. You can go to break</p> <p>12 whenever your line leader tells you to;</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. And how do you know it's time to go</p> <p>16 back to work?</p> <p>17 A. By watching the clock on the wall.</p> <p>18 Q. What time do you usually arrive at the</p> <p>19 plant in the morning?</p> <p>20 A. What time do I usually arrive at the</p> <p>21 plant?</p> <p>22 Q. Yeah.</p> <p>23 A. Sometimes I try to get -- well, I try</p>                                       | <p style="text-align: right;">29</p> <p>1 security?</p> <p>2 A. Well, they -- they got -- like I said,</p> <p>3 they got -- they got a security at the</p> <p>4 guard shack.</p> <p>5 Q. But you don't have to do any waiting</p> <p>6 there, do you?</p> <p>7 A. No.</p> <p>8 Q. Have you ever been searched?</p> <p>9 A. I have.</p> <p>10 Q. And describe that for me.</p> <p>11 A. Well, when I was leaving the premises</p> <p>12 one day, they stopped and asked me</p> <p>13 could they look in my truck, look</p> <p>14 behind the seat and stuff under the</p> <p>15 seat and in the back, in the bed of the</p> <p>16 truck.</p> <p>17 Q. Did that happen just once?</p> <p>18 A. That I can recall. Once that I can</p> <p>19 recall.</p> <p>20 Q. You're not routinely searched when you</p> <p>21 come on or when you leave the premises?</p> <p>22 A. I am not.</p> <p>23 Q. And you don't spend any time stopping</p>   |



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| <p style="text-align: right;">30</p> <p>1 to be searched or to pass through any</p> <p>2 security?</p> <p>3 A. I don't.</p> <p>4 Q. So any reference in this declaration</p> <p>5 that you signed for claims for the time</p> <p>6 it takes to pass through security or</p> <p>7 clear security at the end of the day,</p> <p>8 that's not accurate, is it?</p> <p>9 A. Like I said, I don't recollect being</p> <p>10 searched but one time. I was stopped</p> <p>11 and searched one time.</p> <p>12 (Short recess)</p> <p>13 Q. So you don't spend -- just to get back</p> <p>14 on track here, Mr. Ford, you don't</p> <p>15 spend any time passing through</p> <p>16 security?</p> <p>17 A. No. They don't stop and check us.</p> <p>18 They don't stop and check us.</p> <p>19 Q. And so as far as you're concerned,</p> <p>20 there's no claim in this lawsuit for</p> <p>21 security, as far as you know?</p> <p>22 A. Well, myself, I say I haven't been</p> <p>23 checked. I cannot speak for others.</p> | <p style="text-align: right;">32</p> <p>1 on who they got doing the windows.</p> <p>2 Some -- some of them hand out supplies</p> <p>3 faster than others. It just all</p> <p>4 depends on who they got working.</p> <p>5 Q. Okay. After you pick up your supplies,</p> <p>6 where do you go?</p> <p>7 A. I -- I walk -- I walk to my work area.</p> <p>8 Q. Do you actually go to the kill area?</p> <p>9 A. I go to what we call live hanging break</p> <p>10 room.</p> <p>11 Q. Oh, you go to the break room?</p> <p>12 A. Right.</p> <p>13 Q. Once you get to the break room, what do</p> <p>14 you do?</p> <p>15 A. That's where I get dressed at. I put</p> <p>16 on my PPE.</p> <p>17 Q. And how long does it take you to put</p> <p>18 that on in the break room?</p> <p>19 A. I -- I couldn't say. I couldn't put a</p> <p>20 time frame on it.</p> <p>21 Q. And then what do you do?</p> <p>22 A. After I put on my equipment, I go to my</p> <p>23 work area, go to the line.</p>  |
| <p style="text-align: right;">31</p> <p>1 Q. Okay. After you go through the gate</p> <p>2 and you park, you go -- do you go to</p> <p>3 the supply room?</p> <p>4 A. I go through the double doors and go to</p> <p>5 the room where we pick up our -- our</p> <p>6 stuff that we wear.</p> <p>7 Q. At the supply desk?</p> <p>8 A. Supply desk, yeah.</p> <p>9 Q. Is that where you go first?</p> <p>10 A. To the time clock first.</p> <p>11 Q. Time clock first?</p> <p>12 A. Swipe in. Then to the supply window.</p> <p>13 Q. And I think you testified there may be</p> <p>14 a line there.</p> <p>15 A. It -- it all depends. Sometimes it be</p> <p>16 two or three ahead of us. Sometimes it</p> <p>17 may be six or seven.</p> <p>18 Q. Does the line move fairly quickly or</p> <p>19 not?</p> <p>20 A. You -- you got a waiting period.</p> <p>21 Q. How long?</p> <p>22 A. I can't put a time frame on it because,</p> <p>23 like I say, it -- it just all depends</p>                                 | <p style="text-align: right;">33</p> <p>1 Q. Do you ever -- after you put your --</p> <p>2 your stuff on in the live hang break</p> <p>3 room, do you -- is it time always to go</p> <p>4 right to your work area or do you have</p> <p>5 any down time you can wait?</p> <p>6 A. Most of the time, by the time I get</p> <p>7 dressed it's time for me to go to work.</p> <p>8 Q. Okay. And --</p> <p>9 A. See, the --</p> <p>10 Q. After you get dressed, you go</p> <p>11 immediately -- when you're doing</p> <p>12 back-up kill, after you get dressed in</p> <p>13 the live hang break room, how far of a</p> <p>14 walk is it to your workstation?</p> <p>15 A. It's -- it's not that far.</p> <p>16 Q. And when you get there, how long do you</p> <p>17 have to wait until the first bird</p> <p>18 comes?</p> <p>19 A. I couldn't put a time frame on it. I</p> <p>20 couldn't say.</p> <p>21 Q. When you're doing live hang, how long</p> <p>22 does it take you to walk from the live</p> <p>23 hang break room to where you do your</p> |

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| <p style="text-align: right;">34</p> <p>1 job?</p> <p>2 A. To be honest with you, I've never timed</p> <p>3 it.</p> <p>4 Q. Okay.</p> <p>5 A. So I -- I couldn't tell you that.</p> <p>6 Q. Now, before you actually perform your</p> <p>7 job as a back-up killer, do you have to</p> <p>8 do any washing?</p> <p>9 A. No, I don't. Not as a back-up killer,</p> <p>10 I don't.</p> <p>11 Q. And you don't have to do any washing</p> <p>12 when you're doing live hang, do you?</p> <p>13 A. No, I don't.</p> <p>14 Q. I might have just asked you this, but</p> <p>15 I've asked so many people this today</p> <p>16 I'm going to ask it again. How long</p> <p>17 does it take you to put on this PPE?</p> <p>18 A. I -- I can't put a time frame on it</p> <p>19 because I haven't timed myself.</p> <p>20 Q. Fair enough. Now, when it's time for</p> <p>21 you to go on your break, what do you</p> <p>22 do --</p> <p>23 A. I --</p>  | <p style="text-align: right;">36</p> <p>1 Q. How long -- and after you wash off and</p> <p>2 take the stuff off, do you go to the</p> <p>3 live hang break room?</p> <p>4 A. I do.</p> <p>5 Q. And can you tell me how much time it</p> <p>6 takes for you after the last bird goes</p> <p>7 by to get to the break room?</p> <p>8 A. Oh, I couldn't give you a time frame on</p> <p>9 that. Like I said, I haven't -- I</p> <p>10 don't time myself when I'm doing these</p> <p>11 things. I just get undressed and do</p> <p>12 what I got to do, you know.</p> <p>13 Q. The knife that you use in -- as a</p> <p>14 back-up killer, where do you get that?</p> <p>15 A. Oh, I have to go -- I have to go -- I</p> <p>16 have to go through the evis, double</p> <p>17 doors right there where evis and live</p> <p>18 hang -- I go into there. Most of the</p> <p>19 time one of the line leaders will be</p> <p>20 done washed them up and put them in a</p> <p>21 tray there and I go pick them up and</p> <p>22 bring them to my line, to my work area.</p> <p>23 Q. And when do you do that?</p> |
| <p style="text-align: right;">35</p> <p>1 Q. -- when you're doing back-up kill?</p> <p>2 A. I got to wait until the birds stop</p> <p>3 coming. Then I take off my stuff, wash</p> <p>4 it up, and hang it on the wall.</p> <p>5 Q. Where do you hang it?</p> <p>6 A. On the wall on the rack that I told you</p> <p>7 they have for us. I hang it on -- on</p> <p>8 the rack.</p> <p>9 Q. In the live hang break room?</p> <p>10 A. And on the kill floor.</p> <p>11 Q. On the kill floor, right there?</p> <p>12 A. In the kill room where I work at.</p> <p>13 Q. Is there any wait time to wash?</p> <p>14 A. Like I said, when the birds stop</p> <p>15 coming. I got to wait until the birds</p> <p>16 stop coming.</p> <p>17 Q. Right.</p> <p>18 A. Then when the birds -- all the birds go</p> <p>19 through, then I undress, wash up my</p> <p>20 stuff, and put it on a rack so I --</p> <p>21 when we start back up, I get it off the</p> <p>22 rack, re-dress, get ready, prepare for</p> <p>23 work again.</p> | <p style="text-align: right;">37</p> <p>1 A. Excuse me?</p> <p>2 Q. When do you do that?</p> <p>3 A. When I return from break. And I also</p> <p>4 do that in the morning time. I get my</p> <p>5 utensils and bring them to my -- to my</p> <p>6 work area.</p> <p>7 Q. Okay. When you go on break, what do</p> <p>8 you do with the knife?</p> <p>9 A. I have to wash them up, wash them up</p> <p>10 and make sure the line leader get them,</p> <p>11 put them on a tray where she can get</p> <p>12 them.</p> <p>13 Q. Tell me what you do when you come off</p> <p>14 break.</p> <p>15 A. When I come off break?</p> <p>16 Q. Yes, sir.</p> <p>17 A. I come off break, I go to my work area,</p> <p>18 suit up, get my stuff off the rack and</p> <p>19 stuff and suit up. And by the time I</p> <p>20 get suited up, most of the time the</p> <p>21 birds is coming, so I don't have any</p> <p>22 time to lag around; the birds be there.</p> <p>23 Q. And, again, can you give me any time</p>   |

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| <p style="text-align: right;">38</p> <p>1 estimate of how long it takes you to go</p> <p>2 from your break back to killing</p> <p>3 chickens?</p> <p>4 A. I haven't timed it. Being honest --</p> <p>5 just being honest, I -- I haven't timed</p> <p>6 it.</p> <p>7 Q. Okay. Tell me what you do at the end</p> <p>8 of the day. What do you have to do to</p> <p>9 get out of the plant?</p> <p>10 A. Okay. What I do to get out of the</p> <p>11 plant, I wait until the birds stop</p> <p>12 coming, I undress, wash my stuff up --</p> <p>13 wash my stuff up, get it, wash up my</p> <p>14 tools and stuff, make sure -- again,</p> <p>15 make sure the line leader gets that --</p> <p>16 those tools and utensils because I'm</p> <p>17 responsible for them.</p> <p>18 Q. Do you ever have any wait time doing</p> <p>19 that?</p> <p>20 A. Any wait time?</p> <p>21 Q. Wait, waiting time.</p> <p>22 A. Uh-uh. Most of the time I'm -- I'm --</p> <p>23 I can get the -- one of the hose and</p>                              | <p style="text-align: right;">40</p> <p>1 Q. But you don't have to wait to do that,</p> <p>2 do you? You're not waiting in line to</p> <p>3 do that, are you?</p> <p>4 A. Not -- not that, no.</p> <p>5 Q. What do you do with your smock and your</p> <p>6 hair net at the end of the day?</p> <p>7 A. My hair net and all, that's not</p> <p>8 reusable. It goes in the garbage can.</p> <p>9 It goes in the garbage can. The smock,</p> <p>10 I take it back. When I go swipe the</p> <p>11 clock, they've got a big bin sitting</p> <p>12 there you put the dirty laundry in.</p> <p>13 Q. Can you estimate for me the amount of</p> <p>14 time it takes at the end of the day</p> <p>15 once the bird passes you till -- from</p> <p>16 that time till when you leave the</p> <p>17 plant?</p> <p>18 A. I -- I haven't timed it. I haven't</p> <p>19 timed it. So if I tell you that it</p> <p>20 takes me a certain amount of time, I'd</p> <p>21 be lying to you.</p> <p>22 Q. It would be a guess. Is that -- is it</p> <p>23 fair to say you would be guessing?</p> |
| <p style="text-align: right;">39</p> <p>1 wash up my utensils because by that</p> <p>2 time the relief man done came in.</p> <p>3 Q. In this declaration that was prepared,</p> <p>4 in paragraph 7 on page 2, about five</p> <p>5 lines up from the end of paragraph 6,</p> <p>6 you see --</p> <p>7 A. I see 7.</p> <p>8 Q. See where it says waiting in line to</p> <p>9 return required supplies, tools, and</p> <p>10 other equipment needed for line</p> <p>11 activities? Do you see that?</p> <p>12 A. Uh-huh.</p> <p>13 Q. Do you ever have to do that?</p> <p>14 A. I -- like I said, I get off the line, I</p> <p>15 get the water hose and I wash up my</p> <p>16 utensils, my knives and stuff that I</p> <p>17 use, my gloves and stuff. And then I</p> <p>18 have to carry it to the double doors</p> <p>19 where -- like I say, where evis and</p> <p>20 kill room join at. And I -- I either</p> <p>21 give -- either then she's waiting for</p> <p>22 it or either I sit it there where she</p> <p>23 can get it.</p> | <p style="text-align: right;">41</p> <p>1 A. However you want to put it, guessing --</p> <p>2 Q. How would you put it?</p> <p>3 A. -- speculating or whatever you want to</p> <p>4 call it.</p> <p>5 Q. All right. What is your understanding,</p> <p>6 Mr. Ford, as to how the company keeps</p> <p>7 track of your time for pay purposes?</p> <p>8 A. What is -- what is my understanding?</p> <p>9 Could you repeat that, because I didn't</p> <p>10 quite --</p> <p>11 Q. Yeah. What's your understanding of how</p> <p>12 the company keeps track of your time</p> <p>13 for purposes of paying you?</p> <p>14 A. My understanding is by the timecard we</p> <p>15 swipe.</p> <p>16 Q. The timecard you swipe in in the</p> <p>17 morning?</p> <p>18 A. Right.</p> <p>19 Q. And the timecard you swipe when you</p> <p>20 leave --</p> <p>21 A. Right.</p> <p>22 Q. -- at the end of the day?</p> <p>23 A. Right.</p>   |

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| <p style="text-align: right;">42</p> <p>1 Q. Have you ever had occasion to go to</p> <p>2 your supervisor or the payroll</p> <p>3 department to complain about your</p> <p>4 paycheck?</p> <p>5 A. I have went to my supervisor before.</p> <p>6 Q. About a pay problem?</p> <p>7 A. Yes.</p> <p>8 Q. And how many times have you done that?</p> <p>9 A. I've done that numerous times when my</p> <p>10 hours be -- my hourly -- my hourly</p> <p>11 hours be wrong on my check.</p> <p>12 Q. And did your supervisor take care of</p> <p>13 the problem?</p> <p>14 A. Correct.</p> <p>15 Q. Prior to this lawsuit that you're</p> <p>16 involved in, have you ever made any</p> <p>17 complaints about the time you're</p> <p>18 claiming here?</p> <p>19 A. Not that I can recall.</p> <p>20 Q. Do you -- strike that. When you're</p> <p>21 doing live hang, what do you have to do</p> <p>22 to go on break?</p> <p>23 A. Once the line leader tells us that it's</p>  | <p style="text-align: right;">44</p> <p>1 A. I couldn't say.</p> <p>2 Q. You can't say?</p> <p>3 A. Can't say.</p> <p>4 Q. Okay. Have you kept any kind of a</p> <p>5 notebook or diary in which you --</p> <p>6 A. No.</p> <p>7 Q. -- show how many hours that you've</p> <p>8 worked at the plant for which you think</p> <p>9 you weren't paid?</p> <p>10 A. No.</p> <p>11 Q. So you haven't made any calculations</p> <p>12 with respect to the claim you're making</p> <p>13 in this case?</p> <p>14 A. Excuse me? Repeat that.</p> <p>15 Q. Have you made any calculations about</p> <p>16 the amount of money you think you're</p> <p>17 owed in this case?</p> <p>18 A. I haven't.</p> <p>19 Q. You have not?</p> <p>20 A. (Witness shakes head.)</p> <p>21 Q. You have to say.</p> <p>22 A. I said I haven't.</p> <p>23 Q. Haven't. Okay. Have you ever worked</p>   |
| <p style="text-align: right;">43</p> <p>1 time to go to break, I undress, hang my</p> <p>2 stuff on the rack, wash my boots off,</p> <p>3 and go to break.</p> <p>4 Q. So you don't have to wash any of the --</p> <p>5 A. No, I don't. Uh-uh.</p> <p>6 Q. And when you come back, you just have</p> <p>7 to put it on. There's no washing</p> <p>8 involved?</p> <p>9 A. No, no washing.</p> <p>10 Q. And at the end of the day, you just</p> <p>11 have to take it off?</p> <p>12 A. Take it off. And if you -- you know,</p> <p>13 you got something that you can reuse,</p> <p>14 such as your apron, you wash it off if</p> <p>15 you want to.</p> <p>16 Q. You don't have to?</p> <p>17 A. You don't have to. You wash it off if</p> <p>18 you want to or you reuse it or either</p> <p>19 you can get new supplies.</p> <p>20 Q. Is it fair to say that you get out of</p> <p>21 the plant quicker at the end of the day</p> <p>22 when you're doing live hang than when</p> <p>23 you're doing back-up killing?</p> | <p style="text-align: right;">45</p> <p>1 overtime?</p> <p>2 A. I have.</p> <p>3 Q. And you get paid time and a half for</p> <p>4 those hours?</p> <p>5 A. I got paid for my hourly work. I can't</p> <p>6 say whether it was time and a half or</p> <p>7 not, but I got paid for my hourly work.</p> <p>8 Q. Okay. Have you ever had any complaints</p> <p>9 about your overtime compensation, how</p> <p>10 they computed it?</p> <p>11 A. No.</p> <p>12 Q. Have you ever been disciplined at</p> <p>13 Equity? Have you ever been written up</p> <p>14 for any --</p> <p>15 A. Yes. Yes, I have been written up.</p> <p>16 Q. What have you been written up for, what</p> <p>17 kinds of things?</p> <p>18 A. I -- I have been written up for no --</p> <p>19 might lose a utensil, something like</p> <p>20 that, a knife. One of the knives that</p> <p>21 we cut with come up missing and you</p> <p>22 can't give an account of it. I've been</p> <p>23 written up for that.</p> |

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| <p>46</p> <p>1 Q. Anything else?</p> <p>2 A. Basically, that's all I can think of.</p> <p>3 Q. That's all I have. Thank you.</p> <p>4 A. Thank you.</p> <p>5</p> <p>6 (The deposition of Kenneth Ford</p> <p>7 concluded at 4:22 p.m. on May 21,</p> <p>8 2008.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |  |
| <p>47</p> <p>1 * * * * *</p> <p>2 REPORTER'S CERTIFICATE</p> <p>3 * * * * *</p> <p>4 STATE OF ALABAMA</p> <p>5 COUNTY OF MONTGOMERY</p> <p>6 I do hereby certify that the above</p> <p>7 and foregoing transcript was taken down</p> <p>8 by me in stenotype, and the questions</p> <p>9 and answers thereto were transcribed by</p> <p>10 means of computer-aided transcription,</p> <p>11 and that the foregoing represents a</p> <p>12 true and correct transcript of the</p> <p>13 testimony given by said witness.</p> <p>14 I further certify that I am neither</p> <p>15 of counsel, nor any relation to the</p> <p>16 parties to the action, nor am I anywise</p> <p>17 interested in the result of said case.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 <u>Bridgette W. Mitchell,</u></p> <p>22 Certified Court Reporter and</p> <p>23 Commissioner for the State of</p> <p>Alabama at Large</p> <p>ACCR No. 231 - Expires 9/30/08</p> <p>MY COMMISSION EXPIRES 1/25/2010</p> |  |

**TAB 16**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
SALINTHA FOSTER

\*\*\*\*\*

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of SALINTHA FOSTER</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 21st day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2 EXAMINATION BY:           PAGE NUMBER:</p> <p>3 MR. GOULD                   6-36</p> <p>4 MR. CAMP                    36-38</p> <p>5</p> <p>6 EXHIBITS:</p> <p>7 (No exhibits were</p> <p>8 submitted to said deposition.)</p> <p>9</p> <p>10 Reporter's Certificate       39</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 *****</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4 MR. ROBERT J. CAMP</p> <p>5 THE COCHRAN FIRM, P.C.</p> <p>6 ATTORNEYS AT LAW</p> <p>7 505 North 20th Street</p> <p>8 Suite 825</p> <p>9 Birmingham, Alabama 35203</p> <p>10 (205) 244-1115</p> <p>11</p> <p>12 ON BEHALF OF THE DEFENDANT:</p> <p>13 MR. MALCOLM S. GOULD</p> <p>14 PELINO &amp; LENTZ</p> <p>15 ATTORNEYS AT LAW</p> <p>16 One Liberty Place</p> <p>17 Thirty-Second Floor</p> <p>18 1650 Market Street</p> <p>19 Philadelphia, Pennsylvania 19103</p> <p>20 (215) 665-1540</p> <p>21</p> <p>22</p> <p>23 *****</p> |



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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified</p> <p>2 Court Reporter of Eufaula, Alabama, acting as</p> <p>3 Commissioner, certify that on this date, as</p> <p>4 provided by the Alabama Rules of Civil Procedure</p> <p>5 and the foregoing stipulation of counsel, there</p> <p>6 came before me at the Law Offices of WILLIAMS,</p> <p>7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>8 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>9 2:10 p.m., SALINTHA FOSTER, witness in the above</p> <p>10 cause, for oral examination, whereupon the</p> <p>11 following proceedings were had:</p> <p>12</p> <p>13 SALINTHA FOSTER,</p> <p>14 being first duly sworn, was examined and</p> <p>15 testified as follows:</p> <p>16</p> <p>17 THE COURT REPORTER: Usual</p> <p>18 stipulations?</p> <p>19 MR. CAMP: Yes.</p> <p>20 MR. GOULD: Yes.</p> <p>21</p> <p>22 EXAMINATION</p> <p>23 BY MR. GOULD:</p>  | <p style="text-align: right;">8</p> <p>1 me to repeat it or reword it, and I'll do what I</p> <p>2 can to try and state the question in a way that</p> <p>3 you'll understand. If you do answer the question,</p> <p>4 I'm going to assume that you understood it and</p> <p>5 have answered it truthfully and to the best of</p> <p>6 your ability. Okay?</p> <p>7 A. Yes.</p> <p>8 Q. And I don't imagine that this deposition</p> <p>9 will take very long, but if you feel you need to</p> <p>10 take a break, just let me know; it's not a</p> <p>11 problem.</p> <p>12 Ms. Foster, can you state your full name for</p> <p>13 the record, please?</p> <p>14 A. Salintha Ashley Foster.</p> <p>15 Q. And what's your home address?</p> <p>16 A. 79 King Road, Troy, Alabama 36081.</p> <p>17 Q. Ms. Foster, are you currently employed?</p> <p>18 A. Yes.</p> <p>19 Q. Where do you work?</p> <p>20 A. At McDonald's.</p> <p>21 Q. How long have you worked there?</p> <p>22 A. For the last three months. Well, since</p> <p>23 February 19th, to be exact.</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Ms. Foster.</p> <p>2 A. Good afternoon.</p> <p>3 Q. My name is Malcolm Gould. I'm an attorney</p> <p>4 with the law firm of Pelino &amp; Lentz in</p> <p>5 Philadelphia. I represent Equity Group Eufaula</p> <p>6 Division, LLC, in a lawsuit filed in Federal Court</p> <p>7 in the Middle District of Alabama.</p> <p>8 We're here to take your deposition today.</p> <p>9 I've got a few ground rules for the deposition</p> <p>10 that will make it run a little bit more smoothly,</p> <p>11 I hope.</p> <p>12 As you see, we have a court reporter here.</p> <p>13 She's going to take down my questions and your</p> <p>14 answers. Because of that, I would ask that you</p> <p>15 keep all of your answers verbal and say yes or no</p> <p>16 instead of nodding or shaking your head. I can</p> <p>17 see it and I know what you mean, but when she</p> <p>18 prints out a transcript of the deposition, she</p> <p>19 can't really print out a nod of the head or a</p> <p>20 shrug of the shoulders.</p> <p>21 You've given an oath today to answer</p> <p>22 truthfully to the best of your ability. If I ask</p> <p>23 a question and you don't understand it, please ask</p> | <p style="text-align: right;">9</p> <p>1 Q. Were you employed at the chicken processing</p> <p>2 plant out in Baker Hill, Alabama?</p> <p>3 A. Yes.</p> <p>4 Q. And when was the last day that you worked</p> <p>5 there?</p> <p>6 A. I can't remember.</p> <p>7 Q. Okay. How long ago?</p> <p>8 A. It was in 2003 or '4. I can't remember the</p> <p>9 date.</p> <p>10 Q. Okay. So it's been several years since</p> <p>11 you've worked there?</p> <p>12 A. Yes.</p> <p>13 Q. Now, when you worked there, do you remember</p> <p>14 the name of the company that was owning or</p> <p>15 operating the plant, the name that was on your</p> <p>16 paychecks?</p> <p>17 A. I can't remember.</p> <p>18 Q. How long did you work at that plant?</p> <p>19 A. I think like seven or eight months.</p> <p>20 Q. What department or position did you work in?</p> <p>21 A. I had different positions. I've worked</p> <p>22 debone; I've worked packing; I was a pallet ticket</p> <p>23 writer; and I also worked evis.</p>   |

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| <p style="text-align: right;">10</p> <p>1 Q. So you were a pallet ticket writer?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Did you work day shift or night shift?</p> <p>4 A. Night.</p> <p>5 Q. For each of those positions?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall around what time of the year</p> <p>8 in 2003 or 2004 you stopped working at the plant?</p> <p>9 Was it winter? spring?</p> <p>10 A. I can't remember.</p> <p>11 Q. Okay. You understand that you are a</p> <p>12 plaintiff in this lawsuit?</p> <p>13 A. Yes.</p> <p>14 Q. Now, Ms. Foster, what is your understanding</p> <p>15 of what the lawsuit is about?</p> <p>16 A. To pay for any time that I was working and</p> <p>17 didn't get paid for it.</p> <p>18 Q. Can you think of any specific examples of</p> <p>19 time you think you were working and were not paid</p> <p>20 for it?</p> <p>21 A. Getting dressed. You know, putting on the</p> <p>22 equipment for safety issues to perform my job.</p> <p>23 And we didn't get credit for it. Or when it was</p> | <p style="text-align: right;">12</p> <p>1 that job?</p> <p>2 A. Go upstairs in the box room, get the labels</p> <p>3 printed out, come back down and put them on the</p> <p>4 correct boxes.</p> <p>5 Q. What position were you in when your</p> <p>6 employment ended?</p> <p>7 A. The tenders.</p> <p>8 Q. Okay. Working on the debone line?</p> <p>9 A. Uh-huh. Yes.</p> <p>10 Q. Which of those positions did you work in</p> <p>11 longest?</p> <p>12 A. It's sort of like a tie between the pallet</p> <p>13 ticket and evis.</p> <p>14 Q. How did you first find out about this</p> <p>15 lawsuit?</p> <p>16 A. I don't remember.</p> <p>17 Q. Did somebody talk to you and tell you to</p> <p>18 sign up for the lawsuit?</p> <p>19 A. If I'm not mistaken, yes.</p> <p>20 Q. And who was that?</p> <p>21 A. I don't recall who.</p> <p>22 Q. Did you go to any sort of group meeting</p> <p>23 where this lawsuit was discussed?</p>                                 |
| <p style="text-align: right;">11</p> <p>1 time for us to go on breaks, and we have to clean</p> <p>2 everything off before going to break; but yet it</p> <p>3 was our break time, and we didn't get that break</p> <p>4 time because we had to clean the materials first.</p> <p>5 Q. Anything else?</p> <p>6 A. I guess that's it.</p> <p>7 Q. When you worked in debone, what position did</p> <p>8 you work in?</p> <p>9 A. I was pulling tenders and cutting the tips</p> <p>10 off the tenders.</p> <p>11 Q. So it was on one of the debone lines?</p> <p>12 A. Uh-huh.</p> <p>13 Q. When you worked in evis, what position did</p> <p>14 you work in?</p> <p>15 A. Pulling livers.</p> <p>16 Q. You also worked in packout; is that correct?</p> <p>17 A. Uh-huh.</p> <p>18 Q. And then you were also a pallet ticket</p> <p>19 writer?</p> <p>20 A. Correct.</p> <p>21 Q. Where was that located?</p> <p>22 A. It's in the evis division also.</p> <p>23 Q. And what were the job responsibilities for</p>                          | <p style="text-align: right;">13</p> <p>1 A. No.</p> <p>2 Q. Other than sitting here today and talking</p> <p>3 with your attorneys, or any other times you may</p> <p>4 have met with your attorneys, have you discussed</p> <p>5 this lawsuit with anybody else?</p> <p>6 A. No.</p> <p>7 Q. As a pallet ticket writer, were there any</p> <p>8 items of clothing or equipment that you had to</p> <p>9 wear when you went out onto the production floor?</p> <p>10 A. Yes.</p> <p>11 Q. Can you list those for me, please?</p> <p>12 A. My smock, my hat, the hair net, cotton</p> <p>13 liners, and the mask.</p> <p>14 Q. You're saying mask. What kind of mask was</p> <p>15 it?</p> <p>16 A. The thing to cover up.</p> <p>17 Q. Like these fabric masks?</p> <p>18 A. It was a hard mask.</p> <p>19 Q. Like plastic?</p> <p>20 A. It wasn't plastic; it was paper.</p> <p>21 Q. It wasn't like a big respirator or anything</p> <p>22 like that?</p> <p>23 A. No.</p> |

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| <p style="text-align: right;">14</p> <p>1 Q. You said you had to wear a hat?</p> <p>2 A. Uh-huh. It was the hard white hat.</p> <p>3 Q. Like the bump cap?</p> <p>4 A. Uh-huh. And the boots.</p> <p>5 Q. In that position, you worked with the evis</p> <p>6 department; is that correct? Did you work on that</p> <p>7 same schedule?</p> <p>8 A. The pallet ticket was for the debone side.</p> <p>9 It was for packers.</p> <p>10 Q. All right. So then as a pallet ticker</p> <p>11 writer, you wore a smock, hat, hair net, cotton</p> <p>12 gloves, a mask, and boots. Is that everything?</p> <p>13 A. Yes.</p> <p>14 Q. Could you wear the boots from home if you</p> <p>15 wanted?</p> <p>16 A. Yes.</p> <p>17 Q. Were there any of those other items that you</p> <p>18 could wear into the plant from outside, like from</p> <p>19 the parking lot?</p> <p>20 A. No. Oh, I forgot my earplugs.</p> <p>21 Q. Earplugs. When you worked in packout, what</p> <p>22 items did you have to wear?</p> <p>23 A. My hat, my cotton liners, the blue gloves,</p>  | <p style="text-align: right;">16</p> <p>1 Q. An arm guard?</p> <p>2 A. Yeah. The arm guard, boots, smock, and an</p> <p>3 apron, earplugs.</p> <p>4 Q. All right. I want to take you through what</p> <p>5 you would do on a daily basis in at least some of</p> <p>6 these positions if not all of them.</p> <p>7 In terms of as a pallet ticket writer, when</p> <p>8 you would arrive at the plant, would you be</p> <p>9 wearing your boots?</p> <p>10 A. Yes.</p> <p>11 Q. When you would come through the doors into</p> <p>12 the plant, what would you do next?</p> <p>13 A. Clock in, go inside the plant, put on the</p> <p>14 rest of my materials, and find out from my</p> <p>15 supervisor where the last crew stopped at with the</p> <p>16 pallet tickets, go upstairs and get more tickets</p> <p>17 to label the boxes, and start labeling.</p> <p>18 Q. Now, where was the area where you would work</p> <p>19 labeling these pallets or these boxes?</p> <p>20 A. In front of the little supervisor's lounge.</p> <p>21 Q. Okay. It was back by the shipping area; is</p> <p>22 that right?</p> <p>23 A. Yes.</p>                   |
| <p style="text-align: right;">15</p> <p>1 the sleeves, the apron, my smock, boots, the</p> <p>2 earplugs, the mask. And that's it.</p> <p>3 Q. When you were pulling livers on evis, what</p> <p>4 items did you have to wear when you were out on</p> <p>5 the production floor?</p> <p>6 A. Smock, apron, hair net thing, and my hat,</p> <p>7 the gloves, the blue sleeves, and cotton liners.</p> <p>8 Q. Earplugs? Did you have to wear earplugs</p> <p>9 there as well?</p> <p>10 A. I didn't. I didn't wear earplugs in that</p> <p>11 part.</p> <p>12 Q. When you worked on the debone line, what</p> <p>13 items did you have to wear when you were out on</p> <p>14 the production floor?</p> <p>15 A. I wore my smock, hat, the hair thing -- I</p> <p>16 can't remember the name.</p> <p>17 Q. Hair net?</p> <p>18 A. Yeah, hair net. And my cotton liners, my</p> <p>19 gloves. What do you call the wire gloves?</p> <p>20 Q. Like the steel mesh gloves?</p> <p>21 A. Yeah. The ones that keep you from cutting</p> <p>22 yourself, that. The blue sleeves, and this little</p> <p>23 hard thing (indicating).</p> | <p style="text-align: right;">17</p> <p>1 Q. In that particular position, do you recall</p> <p>2 the basis on which you were paid, start time and</p> <p>3 end time, were calculated?</p> <p>4 A. Say that again.</p> <p>5 Q. All right. As a pallet ticketer, do you</p> <p>6 know what time you started getting paid?</p> <p>7 A. No.</p> <p>8 Q. Do you know if you were paid from clock-in</p> <p>9 to clock-out?</p> <p>10 A. That's when I was supposed to have been paid</p> <p>11 for, but there was plenty of times my check was</p> <p>12 not right; but nothing was done about it.</p> <p>13 Q. So it's your understanding that as a pallet</p> <p>14 ticket writer, that you were supposed to be paid</p> <p>15 from clock-in to clock-out?</p> <p>16 A. Yes.</p> <p>17 Q. Did you have a certain fixed shift you were</p> <p>18 supposed to work, like a scheduled shift?</p> <p>19 A. Yeah. Just the third shift. But we never</p> <p>20 got -- you always make it there on time but never</p> <p>21 leave on time.</p> <p>22 Q. All right. When you would go out onto the</p> <p>23 production floor, are there any particular items</p> |

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| <p style="text-align: right;">18</p> <p>1 that you would be wearing when you walked onto the</p> <p>2 floor? Would you be wearing your boots?</p> <p>3 A. Can you rephrase that question?</p> <p>4 Q. Sure. Were there some items that you were</p> <p>5 allowed to put on outside of the production area?</p> <p>6 A. I didn't.</p> <p>7 Q. I think you indicated that you wore your</p> <p>8 boots from home?</p> <p>9 A. That's the only thing is my boots.</p> <p>10 Q. Okay. Then you walked onto the production</p> <p>11 floor and you would put everything else on?</p> <p>12 A. Yes.</p> <p>13 Q. So you would put on your hair net then?</p> <p>14 A. Yes.</p> <p>15 Q. If you wanted to, could you put your hair</p> <p>16 net on before?</p> <p>17 A. I wasn't told that.</p> <p>18 Q. Could you wear your hair net in the break</p> <p>19 room?</p> <p>20 A. I think so, yes.</p> <p>21 Q. And then when you got out onto the</p> <p>22 production floor you would put the rest of your</p> <p>23 items on?</p>  | <p style="text-align: right;">20</p> <p>1 Q. And how many breaks did you get?</p> <p>2 A. Two.</p> <p>3 Q. And how long were they?</p> <p>4 A. They were supposed to be 30 minutes, but I</p> <p>5 never got that. I had to go on break when the</p> <p>6 supervisor said you could go.</p> <p>7 Q. So your supervisors would release you when</p> <p>8 it was time to go on break?</p> <p>9 A. Yes.</p> <p>10 Q. And would they tell you to come back at a</p> <p>11 certain time, or would they just say, "It's time;</p> <p>12 go on break"?</p> <p>13 A. Well, if I'm not mistaken, I think the break</p> <p>14 started at 10:50. And you had by 11:15, I think,</p> <p>15 to be back. But you would never get out the door</p> <p>16 at 10:50. Sometimes it was 11:05 before you would</p> <p>17 even get out the door.</p> <p>18 Q. And when you would leave your spot on the</p> <p>19 line to go to break, can you tell me what you</p> <p>20 would do?</p> <p>21 A. When I was on the line?</p> <p>22 Q. I'm sorry. When you were working in this --</p> <p>23 all the questions I'm asking right now are about</p> |
| <p style="text-align: right;">19</p> <p>1 A. Correct.</p> <p>2 Q. Approximately how long would that take?</p> <p>3 A. Maybe 15 minutes.</p> <p>4 Q. So it would take you 15 minutes to put on</p> <p>5 your smock, your hat, hair net, cotton gloves,</p> <p>6 paper mask, and earplugs?</p> <p>7 A. Not for the pallet ticket, no.</p> <p>8 Q. So it wouldn't take you that long in that</p> <p>9 position, or those weren't the items that you wore</p> <p>10 as a pallet ticket writer?</p> <p>11 A. Those are the things that I wore for the</p> <p>12 pallet ticket writer, but it didn't take 15</p> <p>13 minutes for the pallet ticket.</p> <p>14 Q. How long did it take you in that position?</p> <p>15 A. Maybe eight minutes, at the most. It</p> <p>16 depends on if you have any space.</p> <p>17 Q. Okay. Depending on how many other people</p> <p>18 were trying to put on their clothes or equipment</p> <p>19 at the same time?</p> <p>20 A. Correct.</p> <p>21 Q. And did you get any breaks as the pallet</p> <p>22 ticket writer?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">21</p> <p>1 pallet ticket writer.</p> <p>2 A. Before I could go on break, I'd have to have</p> <p>3 the next package of labels downstairs ready for</p> <p>4 when I come back off of break. And whatever else</p> <p>5 the supervisor told me to have ready.</p> <p>6 Q. Okay. So you would have to get labels</p> <p>7 before you could leave?</p> <p>8 A. Yes.</p> <p>9 Q. And then what would you do after that?</p> <p>10 A. After I'd get done with that, I'd wait on</p> <p>11 him to tell me whether I could go to break or not.</p> <p>12 Q. And then that would be when your break would</p> <p>13 start?</p> <p>14 A. Yes.</p> <p>15 Q. And then what would you do?</p> <p>16 A. Come back when everybody else was coming</p> <p>17 back. If not, you would get wrote up.</p> <p>18 Q. What would you do before leaving the</p> <p>19 production area to go out into the break area?</p> <p>20 A. In the production area?</p> <p>21 Q. Right.</p> <p>22 A. Still talking about pallet ticket?</p> <p>23 Q. Yes, ma'am.</p>   |

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| <p style="text-align: right;">22</p> <p>1 A. I'd take off my smock and everything else.<br/> 2 I don't think I took off my hair net and earplugs.<br/> 3 And then I'd go out.<br/> 4 Q. And you would still wear your boots?<br/> 5 A. Yes.<br/> 6 Q. Approximately how long would it take you to<br/> 7 take those items off?<br/> 8 A. I don't remember.<br/> 9 Q. And then how would you know when it was time<br/> 10 to come back from break?<br/> 11 A. Because the supervisors would let you know.<br/> 12 Q. So your particular supervisor would tell<br/> 13 you?<br/> 14 A. He hollers at everybody.<br/> 15 Q. So does my boss. So they would let you know<br/> 16 that it was time to come back?<br/> 17 A. Yes.<br/> 18 Q. And then what would you do?<br/> 19 A. If I'm finished with my break, or if I'm<br/> 20 not, I'd throw it in the trash and go back on the<br/> 21 floor.<br/> 22 Q. So when you were on break, would you get<br/> 23 something to eat?</p>   | <p style="text-align: right;">24</p> <p>1 A. Maybe a couple of minutes. Because I would<br/> 2 only have to wash my gloves. Everything else is<br/> 3 dry.<br/> 4 Q. Now, during the time that you were a pallet<br/> 5 ticket writer, did you ever time yourself on how<br/> 6 long it took you to put your items on or take them<br/> 7 off?<br/> 8 A. No.<br/> 9 Q. So these are just estimates that you are<br/> 10 giving me?<br/> 11 A. Yes.<br/> 12 Q. And would you do the same thing before and<br/> 13 after your second break?<br/> 14 A. Yes.<br/> 15 Q. There wasn't any real difference between<br/> 16 what you would do before and after the first break<br/> 17 and what you would do before and after the second<br/> 18 break?<br/> 19 A. Correct.<br/> 20 Q. Okay. Now did you have a scheduled end time<br/> 21 for your shift as a pallet ticket writer?<br/> 22 A. No.<br/> 23 Q. All right. You would just work until your</p>                           |
| <p style="text-align: right;">23</p> <p>1 A. Yes.<br/> 2 Q. And then when it was time to return to the<br/> 3 production area, you would leave the break area,<br/> 4 walk back through the doors to the production<br/> 5 area; is that correct?<br/> 6 A. Well, I was outside. I didn't go in the<br/> 7 break room.<br/> 8 Q. So you would come back inside and go back to<br/> 9 the production area, correct?<br/> 10 A. Correct.<br/> 11 Q. What would you do then?<br/> 12 A. Wash my hands and get my materials and put<br/> 13 them back on and get back to labeling.<br/> 14 Q. How long would it take you to wash your<br/> 15 materials and get them back on? Once again, we're<br/> 16 still talking about the pallet ticket writer<br/> 17 position.<br/> 18 MR. CAMP: Could you repeat the<br/> 19 question?<br/> 20 MR. GOULD: Sure. I asked her how long<br/> 21 it would take her to put her items back on and<br/> 22 wash them, when she was returning from break as a<br/> 23 pallet ticket writer.</p> | <p style="text-align: right;">25</p> <p>1 supervisor told you you were released?<br/> 2 A. Yes. I'd be released by the next pallet<br/> 3 ticket writer.<br/> 4 Q. Okay. So you couldn't leave until the next<br/> 5 pallet ticket writer was there?<br/> 6 A. Correct.<br/> 7 Q. Now, if you were working night shift, was<br/> 8 there somebody who came in and worked from the end<br/> 9 of night shift to the beginning of day shift, in<br/> 10 your area as a pallet ticket writer?<br/> 11 A. Say that again.<br/> 12 Q. You said that you had to be relieved by<br/> 13 another pallet ticket writer?<br/> 14 A. Uh-huh.<br/> 15 Q. And I believe you told me that you were<br/> 16 working night shift?<br/> 17 A. Yes.<br/> 18 Q. Wasn't there a sanitation shift that came<br/> 19 after night shift?<br/> 20 A. I don't remember.<br/> 21 Q. Do you know whether the particular area in<br/> 22 which you were working just continued to work 24<br/> 23 hours?</p> |



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| <p style="text-align: right;">26</p> <p>1 A. I don't remember. The only thing I</p> <p>2 remember, I remember the lady's name that used to</p> <p>3 relieve me, and her name was Dana.</p> <p>4 Q. At the end of your shift as a pallet ticket</p> <p>5 writer, can you explain to me what you would do</p> <p>6 after you were released but before you left the</p> <p>7 production floor?</p> <p>8 A. After I was released?</p> <p>9 Q. Yeah. After your supervisor said, "Your</p> <p>10 shift's over; it's time to go," or this person</p> <p>11 came and relieved you.</p> <p>12 A. I took the gloves off, washed them, put them</p> <p>13 in a plastic bag, clocked out, and go home.</p> <p>14 Q. Did you also take off the other items that</p> <p>15 you were wearing?</p> <p>16 A. Well, the smock. And I'd take the hair net</p> <p>17 and the earplugs and put them in the trash.</p> <p>18 Q. Okay. Would you take the smock home with</p> <p>19 you?</p> <p>20 A. Yes. And wash it.</p> <p>21 Q. Approximately how long would it take you to</p> <p>22 take those items off and to wash?</p> <p>23 A. I don't know; I didn't time it.</p>        | <p style="text-align: right;">28</p> <p>1 would send it to be put into a bag; and from the</p> <p>2 bag, it was be boxed?</p> <p>3 A. I think it's like five or six pieces of</p> <p>4 meat; and it drops the meat down into a bag. And</p> <p>5 just keep doing the same thing over and over.</p> <p>6 Q. And then in that position I believe you</p> <p>7 indicated that -- did you also have to wear a mask</p> <p>8 in that position?</p> <p>9 A. Yes.</p> <p>10 Q. And you also had to wear gloves and an</p> <p>11 apron; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Did you still wear cotton gloves?</p> <p>14 A. Yes.</p> <p>15 Q. So you wear the same things you did as a</p> <p>16 pallet ticket writer, plus the blue gloves and an</p> <p>17 apron?</p> <p>18 A. Correct.</p> <p>19 Q. Did you wear sleeves?</p> <p>20 A. Yes.</p> <p>21 Q. Were any of those items optional, or not</p> <p>22 required? Would you have been disciplined if you</p> <p>23 failed to wear some of those items?</p> |
| <p style="text-align: right;">27</p> <p>1 Q. You're not sure?</p> <p>2 A. At that time of the morning, I be ready to</p> <p>3 go home.</p> <p>4 Q. I understand. Now, during the time that you</p> <p>5 were working in packout, can you just briefly</p> <p>6 describe for me what that particular position</p> <p>7 does?</p> <p>8 A. You're standing up on this metal stairs</p> <p>9 thing and you're throwing meat into a weigher.</p> <p>10 And the weigher puts it into the bag. And after</p> <p>11 the bag is sealed, they put it into a box.</p> <p>12 Q. And which job were you doing?</p> <p>13 A. I was pulling the meat off of the scale</p> <p>14 thing and putting it into -- pushing the meat into</p> <p>15 the scale so it could be bagged.</p> <p>16 Q. So the meat was coming along on a belt?</p> <p>17 A. Well, it wasn't on a belt; it was like a</p> <p>18 combo poured into the machine and it was just</p> <p>19 dropping. It would drop it.</p> <p>20 Q. Right. All right. And then you would just</p> <p>21 make sure that the weight was proper?</p> <p>22 A. Correct.</p> <p>23 Q. And then once the weight was proper, you</p> | <p style="text-align: right;">29</p> <p>1 A. I'm pretty sure, because my supervisor told</p> <p>2 me I had to have it on.</p> <p>3 Q. So the sleeves, you believe that they were</p> <p>4 required?</p> <p>5 A. Yes.</p> <p>6 Q. The apron, you believe that was required?</p> <p>7 A. Yes. For sanitary reasons.</p> <p>8 Q. And you still wore cotton gloves on that</p> <p>9 position?</p> <p>10 A. Correct.</p> <p>11 Q. Were they required?</p> <p>12 A. If you didn't want your fingers to freeze</p> <p>13 off.</p> <p>14 Q. Is it safe to say that when you would start</p> <p>15 your shift in that particular position, you were</p> <p>16 still wearing the same things when you walked out</p> <p>17 onto the production floor? You would still be</p> <p>18 wearing the boots and hair net?</p> <p>19 A. Uh-huh.</p> <p>20 Q. And then once you got on the production</p> <p>21 floor, you would put on the other items?</p> <p>22 A. Yes.</p> <p>23 MR. CAMP: Object to the form. I'm</p>              |

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| <p style="text-align: right;">30</p> <p>1 confused on that one.</p> <p>2 A. Say that again.</p> <p>3 Q. Let's just talk about the beginning of your</p> <p>4 shift, when you were working in packout.</p> <p>5 A. Okay.</p> <p>6 Q. Were there any items that you would be</p> <p>7 wearing before you stepped out onto the production</p> <p>8 floor?</p> <p>9 A. You have to have all your equipment on</p> <p>10 before you can get onto the floor where the food</p> <p>11 is.</p> <p>12 Q. Right. You would have to -- you would leave</p> <p>13 the hallway and step onto -- go through the doors</p> <p>14 into the production area where all the machines</p> <p>15 are, correct?</p> <p>16 A. Right.</p> <p>17 Q. So when you would go through the doors into</p> <p>18 the production area, would you have your boots on?</p> <p>19 A. Yes.</p> <p>20 Q. Would you have your hair net on?</p> <p>21 A. Sometimes.</p> <p>22 Q. Would you have your smock on?</p> <p>23 A. No.</p>                               | <p style="text-align: right;">32</p> <p>1 is that something that everybody did?</p> <p>2 A. It's just something that some people did.</p> <p>3 Q. All right.</p> <p>4 A. You had an option.</p> <p>5 Q. And then the packout area, how long --</p> <p>6 MR. GOULD: Strike that.</p> <p>7 Q. The packout area, did you have any breaks?</p> <p>8 A. Yes. The same two breaks.</p> <p>9 Q. Both half an hour, scheduled to be half an</p> <p>10 hour?</p> <p>11 A. Yes.</p> <p>12 Q. And in that area, how would you know when it</p> <p>13 was time to go out on break?</p> <p>14 A. When your supervisor let you know. The</p> <p>15 supervisor or line leader.</p> <p>16 Q. And can you go through with me what you</p> <p>17 would do between the time that your supervisor</p> <p>18 released you and the time you were leaving the</p> <p>19 floor to go out on break?</p> <p>20 A. I would wash all my plastic blue stuff down,</p> <p>21 hang it up, and go outside.</p> <p>22 Q. Approximately how long would that take?</p> <p>23 A. Maybe ten minutes, at the most, to wash</p> |
| <p style="text-align: right;">31</p> <p>1 Q. So you would have to put on your other items</p> <p>2 once you walked through the doors into the</p> <p>3 production area?</p> <p>4 A. Correct.</p> <p>5 Q. And can you tell me how long it took you to</p> <p>6 put those items on?</p> <p>7 A. Maybe 15 minutes.</p> <p>8 Q. And did you have to wash or rinse any items</p> <p>9 at the beginning of your shift?</p> <p>10 A. The only thing is my boots.</p> <p>11 Q. And you would walk through the area where</p> <p>12 there was that --</p> <p>13 A. And sanitize my plastic gloves.</p> <p>14 Q. Okay. Let me finish my question.</p> <p>15 A. Okay.</p> <p>16 Q. With your boots, did you just walk through</p> <p>17 an area where there was sanitizer sitting in a</p> <p>18 pool?</p> <p>19 A. No.</p> <p>20 Q. What would you do?</p> <p>21 A. I went in on the other side, where they had</p> <p>22 a water hose, and I just hosed my boots down.</p> <p>23 Q. Is that something that you chose to do, or</p> | <p style="text-align: right;">33</p> <p>1 everything down and hang it up.</p> <p>2 Q. And then how would you know it was time to</p> <p>3 return from break?</p> <p>4 A. Supervisor or line leader would let you</p> <p>5 know.</p> <p>6 Q. Approximately how long would you be in the</p> <p>7 break room?</p> <p>8 A. I didn't go in the break room; I went</p> <p>9 outside.</p> <p>10 Q. How long would you be outside?</p> <p>11 A. Different times. It was never 30 minutes</p> <p>12 though.</p> <p>13 Q. Do you have an idea as to how long it was?</p> <p>14 A. I don't recall.</p> <p>15 Q. All right.</p> <p>16 A. But I know it wasn't 30 minutes, because I</p> <p>17 was always complaining.</p> <p>18 Q. And when it was time to return from break,</p> <p>19 what would you do?</p> <p>20 A. I'd go back in, I put my materials back on,</p> <p>21 I'd wash off whatever I didn't get off before</p> <p>22 going outside, and get back on the stairs where I</p> <p>23 packout at.</p>   |

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| <p style="text-align: right;">34</p> <p>1 Q. So you would wash both before going out on<br/>2 break and when you came back?<br/>3 A. Wash whatever I didn't get off before going<br/>4 outside.<br/>5 Q. Approximately how long would it take you to<br/>6 do those activities?<br/>7 A. Maybe another ten minutes.<br/>8 Q. And is that the same with your second break?<br/>9 A. Yes.<br/>10 Q. Both before and after?<br/>11 A. Yes.<br/>12 Q. Were you a member of the union when you<br/>13 worked at the plant?<br/>14 A. No.<br/>15 Q. Did you have an understanding as to how your<br/>16 hours worked were calculated when you were working<br/>17 in packout?<br/>18 A. Yes.<br/>19 Q. And how was that calculated?<br/>20 A. We were paid by the hour, or we were<br/>21 supposed to be paid by the hour. And if I'm not<br/>22 mistaken, you would get a raise according to<br/>23 production, if you was making production.</p>  | <p style="text-align: right;">36</p> <p>1 Q. Were you terminated or did you quit?<br/>2 A. I quit.<br/>3 Q. I think those are the only questions I'm<br/>4 going to have for you this afternoon. I<br/>5 appreciate your time. Mr. Camp may have some<br/>6 questions.<br/>7 MR. CAMP: Yeah. Hold on one second.<br/>8 (A brief recess was taken.)<br/>9 BY MR. CAMP:<br/>10 Q. When you were the pallet ticket writer, you<br/>11 said you were paid clock-in to clock-out. What<br/>12 time were you supposed to be at work?<br/>13 A. I usually got there around three-something<br/>14 in the afternoon and didn't leave until maybe four<br/>15 o'clock the next morning.<br/>16 Q. Okay. That's what time you got there. What<br/>17 time were you required to be at work?<br/>18 A. I think it was four until, I want to say<br/>19 twelve; but I can't remember.<br/>20 Q. Four in the afternoon until twelve o'clock<br/>21 at night?<br/>22 A. Uh-huh.<br/>23 Q. Okay. And what time did you say you would</p>  |
| <p style="text-align: right;">35</p> <p>1 Q. But did you know how the actual hours for<br/>2 which you were paid were calculated? You told me<br/>3 about your wage rate. How about the hours for<br/>4 which you were paid? How were those calculated<br/>5 when you were in packout?<br/>6 A. I don't recall.<br/>7 Q. During the time that you were employed at<br/>8 the plant, were you ever written up or<br/>9 reprimanded?<br/>10 A. Can you repeat that?<br/>11 Q. Sure. During the time that you were working<br/>12 at the plant, were you ever written up for any<br/>13 reason or given some sort of written reprimand?<br/>14 A. Getting on the line late. That's the only<br/>15 thing I can think of getting wrote up for.<br/>16 Anything else, I don't remember it.<br/>17 Q. Were there times that you were written up<br/>18 for getting on the line late that you had arrived<br/>19 late to work?<br/>20 A. No.<br/>21 Q. Were you ever written up for any sort of<br/>22 attendance reasons?<br/>23 A. No.</p> | <p style="text-align: right;">37</p> <p>1 get to the plant?<br/>2 A. I got there around three. 3:30 or 3:00.<br/>3 Q. When would you clock in?<br/>4 A. I'd clock in maybe ten minutes before I<br/>5 would get ready to get on the floor.<br/>6 Q. So ten minutes before four o'clock?<br/>7 A. Sometimes. And sometimes earlier.<br/>8 Q. Were you paid from 3:50 or were you paid<br/>9 from four o'clock?<br/>10 A. From four o'clock, no matter when I clocked<br/>11 in.<br/>12 Q. So when you say you were paid from clock-in<br/>13 to clock-out --<br/>14 A. No. They get you from four o'clock to<br/>15 whatever time you were supposed to have been off.<br/>16 Q. Okay.<br/>17 A. Anything extra, they don't give it to you.<br/>18 You just work it for nothing.<br/>19 Q. Were you allowed to wear your hair net<br/>20 outside, outside of the production facility, like<br/>21 outdoors?<br/>22 A. If I'm not mistaken, I think I had to take<br/>23 it off. And I used to stick it in my pocket, if</p> |



38

1 I'm not mistaken. I really can't remember.

2 Q. And just to clarify, did you say that you  
3 had to wash your smock at home?

4 A. Yes.

5 Q. You were responsible for washing your smock  
6 at the house?

7 A. Yes.

8 Q. Okay. That's all I have.

9 MR. GOULD: That's fine. I have no  
10 other questions. Thank you.

11

12 (The deposition was concluded.)

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1 CERTIFICATE

2

3 STATE OF ALABAMA

4 BARBOUR COUNTY

5

6 I hereby certify that the above and  
7 foregoing deposition was taken down by me in  
8 stenotype and the questions and answers thereto  
9 were transcribed by means of computer-aided  
10 transcription, and that the foregoing represents  
11 a true and correct transcript of the testimony  
12 given by said witness upon said hearing.

13 I further certify that I am neither of  
14 counsel, nor kin to the parties to the action,  
15 nor am I in anywise interested in the result of  
16 said cause.

17

18

19 CYNTHIA M. NOAKES, Commissioner

20 Certified Court Reporter,

21 ACCR #327 - Expires 09/30/2008

22

23 Commission Expires 07/08/2009

**TAB 17**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
RENATA FULLER

\*\*\*\*\*

|   |   |
|---|---|
| <p style="text-align: right;">2</p> <p>1 STIPULATION</p> <p>2</p> <p>3 IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of RENATA FULLER may</p> <p>6 be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 21st day</p> <p>10 of May, 2008.</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18 IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2 EXAMINATION BY: PAGE NUMBER:</p> <p>3 MR. GOULD 6-30</p> <p>4 MR. STEENSLAND 30-31</p> <p>5</p> <p>6</p> <p>7 EXHIBITS:</p> <p>8 (No exhibits were</p> <p>9 submitted to said deposition.)</p> <p>10</p> <p>11 Reporter's Certificate 32</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 *****</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3 IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4 M. JOHN STEENSLAND, III</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 ATTORNEYS AT LAW</p> <p>7 739 West Main Street</p> <p>8 Dothan, Alabama 36301</p> <p>9 (334) 792-1900</p> <p>10</p> <p>11 ON BEHALF OF THE DEFENDANT:</p> <p>12 MR. MALCOLM S. GOULD</p> <p>13 PELINO &amp; LENTZ</p> <p>14 ATTORNEYS AT LAW</p> <p>15 One Liberty Place</p> <p>16 Thirty-Second Floor</p> <p>17 1650 Market Street</p> <p>18 Philadelphia, Pennsylvania 19103</p> <p>19 (215) 665-1540</p> <p>20</p> <p>21</p> <p>22 *****</p> <p>23</p> |

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|---|---|
| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified</p> <p>2 Court Reporter of Eufaula, Alabama, acting as</p> <p>3 Commissioner, certify that on this date, as</p> <p>4 provided by the Alabama Rules of Civil Procedure</p> <p>5 and the foregoing stipulation of counsel, there</p> <p>6 came before me at the Law Offices of WILLIAMS,</p> <p>7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>8 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>9 1:35 p.m., RENATA FULLER, witness in the above</p> <p>10 cause, for oral examination, whereupon the</p> <p>11 following proceedings were had:</p> <p>12</p> <p>13 RENATA FULLER,</p> <p>14 being first duly sworn, was examined and</p> <p>15 testified as follows:</p> <p>16</p> <p>17 THE COURT REPORTER: Usual</p> <p>18 stipulations?</p> <p>19 MR. STEENSLAND: Yes.</p> <p>20 MR. GOULD: Yes.</p> <p>21</p> <p>22 EXAMINATION</p> <p>23 BY MR. GOULD:</p>   | <p style="text-align: right;">8</p> <p>1 the shoulders or something like that. I would</p> <p>2 also ask that you wait until I finish my question</p> <p>3 before you give your answer. That makes it much</p> <p>4 easier for her to take down our question and</p> <p>5 answer. It also makes sure that you hear my</p> <p>6 entire question before you give your answer.</p> <p>7 Okay?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Now, you've given an oath to answer</p> <p>10 truthfully to the best of your ability today. If</p> <p>11 I ask a question and you don't understand it, just</p> <p>12 let me know. I'll be happy to repeat the question</p> <p>13 or try and ask the question in a different way.</p> <p>14 If you do answer the question, I'm going to assume</p> <p>15 that you understood the question and that you are</p> <p>16 answering it truthfully to the best of your</p> <p>17 ability. Okay?</p> <p>18 A. Okay.</p> <p>19 Q. There may be instances when your counsel may</p> <p>20 raise objections. I would ask that you let him</p> <p>21 finish speaking before you give any answer or say</p> <p>22 anything. Okay?</p> <p>23 A. Okay.</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Ms. Fuller.</p> <p>2 A. Good afternoon.</p> <p>3 Q. My name is Malcolm Gould. I'm an attorney</p> <p>4 with the law firm of Pelino &amp; Lentz in</p> <p>5 Philadelphia. We represent Equity Group Eufaula</p> <p>6 Division, LLC, in litigation filed in Federal</p> <p>7 Court in the Middle District of Alabama. We're</p> <p>8 here today to take your deposition.</p> <p>9 You understand that you are a plaintiff in</p> <p>10 this case?</p> <p>11 A. (Witness nods head.)</p> <p>12 Q. Yes?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I should always give the rules before</p> <p>15 I start asking questions.</p> <p>16 A. I'm sorry.</p> <p>17 Q. That's okay. We're here taking your</p> <p>18 deposition today. As you can see, we have a court</p> <p>19 reporter here. She's going to take down my</p> <p>20 questions and your answers. Because of that, I</p> <p>21 ask that you keep all of your responses verbal.</p> <p>22 When she's taking down your responses, she really</p> <p>23 can't take down a nod of the head or a shrug of</p> | <p style="text-align: right;">9</p> <p>1 Q. Can you state your full name for the record?</p> <p>2 A. My name is Renata Monique Fuller.</p> <p>3 Q. Ms. Fuller what is your current home</p> <p>4 address?</p> <p>5 A. 4003 Maple Circle, Columbus, Georgia.</p> <p>6 Q. Ms. Fuller, you understand that you are a</p> <p>7 plaintiff in this litigation, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Can you explain to me what your</p> <p>10 understanding of this lawsuit is?</p> <p>11 A. That we're here to get paid for the job that</p> <p>12 we're doing -- get paid for the hours we was</p> <p>13 working, to get paid for those.</p> <p>14 Q. All right. And what does that include?</p> <p>15 A. The work that we was doing, the time that we</p> <p>16 worked and the time that we finished.</p> <p>17 Q. Are you currently employed?</p> <p>18 A. No.</p> <p>19 Q. When did you last work at Equity Group?</p> <p>20 A. 2004.</p> <p>21 Q. How long did you work there?</p> <p>22 A. Three years.</p> <p>23 Q. And when you first started working at the</p>  |

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|--|---|
| <p style="text-align: right;">10</p> <p>1 plant, who was it owned by? Was it Equity Group</p> <p>2 or was it --</p> <p>3 A. No, sir. It was Charoen Polkphand.</p> <p>4 Q. Okay. Do you know when in 2004 you stopped</p> <p>5 working at the plant?</p> <p>6 A. No, sir, not exactly.</p> <p>7 Q. Had the name on the front of the plant been</p> <p>8 changed to Equity Group by the time you left?</p> <p>9 A. I'm not sure.</p> <p>10 Q. At the time you left the plant, in what</p> <p>11 department or position were you working?</p> <p>12 A. I was a HACCP tech.</p> <p>13 MR. STEENSLAND: What was that?</p> <p>14 THE WITNESS: A HACCP tech.</p> <p>15 Q. Can you spell that?</p> <p>16 A. H-A-C-C-P.</p> <p>17 Q. And what was the -- what are the job</p> <p>18 responsibilities of that position?</p> <p>19 A. To walk around and observe, to make sure</p> <p>20 that everybody wear their proper gears, and to</p> <p>21 test to make sure the chickens are coming through</p> <p>22 from them, no feces, stuff like that.</p> <p>23 Q. Did you do that throughout the entire plant</p> | <p style="text-align: right;">12</p> <p>1 Q. How long did you work in that position at</p> <p>2 the plant?</p> <p>3 A. (No response.)</p> <p>4 Q. More than year?</p> <p>5 A. Yes.</p> <p>6 Q. Were you a member of the union when you</p> <p>7 worked at the plant?</p> <p>8 A. No, sir.</p> <p>9 Q. Now, this particular position was not a</p> <p>10 union-eligible position; is that correct?</p> <p>11 A. I'm not sure.</p> <p>12 Q. In that position, I'm just going to call it</p> <p>13 a tech so that I don't butcher it every time I say</p> <p>14 it. Okay?</p> <p>15 A. Okay.</p> <p>16 Q. In your position as a tech, were you</p> <p>17 required to wear any sort of items or clothing or</p> <p>18 equipment to go out on the production floor?</p> <p>19 A. Yes.</p> <p>20 Q. And what were those items?</p> <p>21 A. Hair net, earplugs, smock, rubber boots. It</p> <p>22 was some more, but I can't remember because I did</p> <p>23 different things.</p> |
| <p style="text-align: right;">11</p> <p>1 or just in one particular part of the plant?</p> <p>2 A. Throughout debone and evis.</p> <p>3 Q. Throughout what they would call the fresh</p> <p>4 plant; is that right? You didn't go into the</p> <p>5 further processing side of the plant, did you?</p> <p>6 A. I'm not understanding what you're asking me.</p> <p>7 Q. Okay. Are you aware that there was a</p> <p>8 further processing operation, a cook plant at that</p> <p>9 location?</p> <p>10 A. Yes.</p> <p>11 Q. Did you go -- as part of your job</p> <p>12 responsibilities, did you go into that part of the</p> <p>13 plant?</p> <p>14 A. No.</p> <p>15 Q. Okay. Do you have any understanding as to</p> <p>16 the basis on which you were paid as a HACCP tech?</p> <p>17 A. I'm not sure.</p> <p>18 Q. Do you know whether you were paid on the</p> <p>19 basis of line time, whether you were clocked in,</p> <p>20 clocked out; do you have any understanding?</p> <p>21 A. No, sir.</p> <p>22 Q. How long were you in that position before --</p> <p>23 MR. GOULD: Strike that.</p> | <p style="text-align: right;">13</p> <p>1 Q. Did you have to wear any sort of the gloves?</p> <p>2 A. Yes.</p> <p>3 Q. And what kind of gloves did you have to</p> <p>4 wear?</p> <p>5 A. Some blue rubber gloves.</p> <p>6 Q. Anything else?</p> <p>7 A. Not that I can remember.</p> <p>8 Q. Did you have to wear any sort of helmet or</p> <p>9 bump cap?</p> <p>10 A. I can't remember.</p> <p>11 Q. Were there any of these items that you could</p> <p>12 wear into the plant from the parking lot?</p> <p>13 A. (No response.)</p> <p>14 Q. Could you wear your boots from home?</p> <p>15 A. Yes.</p> <p>16 Q. Anything else?</p> <p>17 A. Hair net, earplugs. That's about all I can</p> <p>18 remember.</p> <p>19 Q. When you would arrive at the plant, did you</p> <p>20 have to clear any sort of security?</p> <p>21 A. Could you rephrase that for me?</p> <p>22 Q. Sure. Would you drive yourself to work?</p> <p>23 A. Yes.</p>                              |

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|--|---|
| <p style="text-align: right;">14</p> <p>1 Q. When you came up the driveway to go into the</p> <p>2 parking lot, there was a guard booth, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And did you have to submit to any kind of</p> <p>5 search or anything like that to get into the</p> <p>6 plant?</p> <p>7 A. No.</p> <p>8 Q. Did you have a sticker or some sort of decal</p> <p>9 on your car?</p> <p>10 A. Yes. Just had to show ID.</p> <p>11 Q. Okay. And then after you pulled into the</p> <p>12 parking lot, did you have to go through any other</p> <p>13 kind of security?</p> <p>14 A. No.</p> <p>15 Q. No metal detectors or turnstiles or anything</p> <p>16 like that?</p> <p>17 A. No, sir.</p> <p>18 Q. Once you would enter the building, what</p> <p>19 would you do next?</p> <p>20 A. I would go to supply and get my supplies,</p> <p>21 then wait to clock in.</p> <p>22 Q. Which shift were you working?</p> <p>23 A. Both.</p>   | <p style="text-align: right;">16</p> <p>1 gloves, things that I needed.</p> <p>2 Q. And would you have to get new ones every</p> <p>3 day?</p> <p>4 A. If my old ones was torn.</p> <p>5 Q. Okay. So with the gloves, you might not</p> <p>6 have to get new gloves every day; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Now, are those things that you would carry</p> <p>9 home with you, and you would carry them back into</p> <p>10 the plant, your gloves?</p> <p>11 A. Yes.</p> <p>12 Q. And what about your boots? Would you</p> <p>13 normally wear them in from the parking lot?</p> <p>14 A. Yes.</p> <p>15 Q. And what about the smock? Is that something</p> <p>16 you would have to get new every day?</p> <p>17 A. No.</p> <p>18 Q. So you could take the smock home and wash it</p> <p>19 and bring it back in?</p> <p>20 A. Yes.</p> <p>21 Q. What about the hair net? Would you get a</p> <p>22 new one every day?</p> <p>23 A. No.</p>   |
| <p style="text-align: right;">15</p> <p>1 Q. When you -- right before you left the</p> <p>2 company?</p> <p>3 A. Night.</p> <p>4 Q. And what were your hours? Did you have a</p> <p>5 scheduled start time?</p> <p>6 A. No.</p> <p>7 Q. How would you know when to come in to work?</p> <p>8 A. They would call for us to come in a little</p> <p>9 earlier.</p> <p>10 Q. So a supervisor would call you and ask you</p> <p>11 to come in at a particular time?</p> <p>12 A. Yes. If we're not scheduled to work at two.</p> <p>13 Q. What if you were scheduled to work?</p> <p>14 A. If I was scheduled to work at two, I would</p> <p>15 be there.</p> <p>16 Q. So there was some sort of schedule?</p> <p>17 A. Yes.</p> <p>18 Q. Was it different every week?</p> <p>19 A. Not every week. It was different because we</p> <p>20 had to switch out.</p> <p>21 Q. Okay. Now, what supplies would you pick up</p> <p>22 at the supply counter?</p> <p>23 A. Hair net, earplugs, smock, gloves, cotton</p> | <p style="text-align: right;">17</p> <p>1 Q. Was that also something you would carry home</p> <p>2 with you, and then carry back into work the next</p> <p>3 day?</p> <p>4 A. Yes.</p> <p>5 Q. So all of those items at the end of your</p> <p>6 shift, you would take them home with you, and then</p> <p>7 bring them back with you the next day at the start</p> <p>8 of your shift?</p> <p>9 A. Yes.</p> <p>10 Q. And if you decided that you needed to</p> <p>11 replace them, when you first got to the plant, you</p> <p>12 would replace those items?</p> <p>13 A. Yes.</p> <p>14 Q. Before going out onto the production floor,</p> <p>15 were there particular items that you could put on?</p> <p>16 In other words, in the break room or in the</p> <p>17 hallway outside of the production area, were there</p> <p>18 items that you could put on?</p> <p>19 A. Yes.</p> <p>20 Q. Obviously, if you could wear your boots from</p> <p>21 home, you could have your boots on before you went</p> <p>22 in; is that correct?</p> <p>23 A. Yes.</p> |

|  |  |
|--|--|
| <p style="text-align: right;">18</p> <p>1 Q. Could you also have your hair net and</p> <p>2 earplugs in before you went onto the production</p> <p>3 floor?</p> <p>4 A. Yes.</p> <p>5 Q. What about your smock?</p> <p>6 A. No.</p> <p>7 Q. So you had to wait until you went onto the</p> <p>8 production floor before you put on your smock?</p> <p>9 A. Yes.</p> <p>10 Q. Were there any other items that you were</p> <p>11 allowed to have on before you went onto the</p> <p>12 production floor?</p> <p>13 A. I can't remember at this time.</p> <p>14 Q. When would you normally clock in? after you</p> <p>15 went to the supply counter or before?</p> <p>16 A. It was after.</p> <p>17 Q. You would go into one of the break rooms and</p> <p>18 clock in?</p> <p>19 A. Yes.</p> <p>20 Q. There were time clocks in there that you</p> <p>21 could swipe?</p> <p>22 A. Yes.</p> <p>23 Q. And then after that, sometime after that,</p>  | <p style="text-align: right;">20</p> <p>1 A. Correct.</p> <p>2 Q. And you had to put on your smock; is that</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And your gloves?</p> <p>6 A. Yes.</p> <p>7 Q. Anything else?</p> <p>8 A. An apron, arm guards, sleeves.</p> <p>9 Q. And did you wear that in connection with</p> <p>10 your position as a tech?</p> <p>11 A. No.</p> <p>12 Q. All right. So right now I'm just asking</p> <p>13 about your position as the tech.</p> <p>14 A. Okay.</p> <p>15 Q. So did you have to wear an arm guard or</p> <p>16 sleeves in your position as a tech?</p> <p>17 A. No.</p> <p>18 Q. What about an apron?</p> <p>19 A. No.</p> <p>20 Q. So you just had to put on your smock and</p> <p>21 your gloves?</p> <p>22 A. Yes. No.</p> <p>23 Q. No? What else?</p>   |
| <p style="text-align: right;">19</p> <p>1 you would go out onto the production floor?</p> <p>2 A. Yes.</p> <p>3 Q. Now, could you basically go on whenever you</p> <p>4 wanted? You didn't have a particular group or</p> <p>5 line that you had to go on with?</p> <p>6 A. No.</p> <p>7 Q. So you could go on whenever you were ready</p> <p>8 to start; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know whether you were paid from your</p> <p>11 clock-in time?</p> <p>12 A. I don't know.</p> <p>13 Q. Once you walked through the doors to go onto</p> <p>14 the production floor, what would you do next?</p> <p>15 A. I would sanitize what I have on.</p> <p>16 Q. And what would you have on? At that point</p> <p>17 in time, would you have anything on other than</p> <p>18 your boots and hair net and earplugs?</p> <p>19 A. Excuse me?</p> <p>20 Q. When you walked out onto the production</p> <p>21 floor, at that point in time you would have on</p> <p>22 your hair net, earplugs, and your boots; is that</p> <p>23 correct?</p> | <p style="text-align: right;">21</p> <p>1 A. Hair net, earplugs.</p> <p>2 Q. Right. When you got onto the production</p> <p>3 floor, you just would have to put on a smock and</p> <p>4 gloves, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Approximately how long would it take you to</p> <p>7 do that?</p> <p>8 A. About five minutes.</p> <p>9 Q. It would take you five minutes to put on a</p> <p>10 smock and gloves?</p> <p>11 A. About.</p> <p>12 Q. And then what would you do next?</p> <p>13 A. Start inspection.</p> <p>14 Q. Would you have to wash your gloves or wash</p> <p>15 your hands or anything like that?</p> <p>16 A. Yes.</p> <p>17 Q. So was that included within the five minute</p> <p>18 estimate that you just gave me, or was that</p> <p>19 separate?</p> <p>20 A. That's separate.</p> <p>21 Q. How long would it take you to wash your</p> <p>22 hands or your gloves at the beginning of your</p> <p>23 shift?</p> |



|   |  |
|---|--|
| <p style="text-align: right;">22</p> <p>1 A. It depends.</p> <p>2 Q. Depended on what?</p> <p>3 A. The people.</p> <p>4 Q. Depended on whether there were people</p> <p>5 already there at the sink?</p> <p>6 A. Yes.</p> <p>7 Q. And then you didn't actually have a</p> <p>8 production line that you had to go to; you just</p> <p>9 roamed the floor; is that correct?</p> <p>10 A. I worked on a production line; but at the</p> <p>11 time, when my last day working, I was a HACCP</p> <p>12 tech. But I worked on a production line.</p> <p>13 Q. Right. I'm just talking about in your</p> <p>14 position as a tech.</p> <p>15 A. No.</p> <p>16 Q. Because you told me that you were in that</p> <p>17 position as a tech for at least a year before you</p> <p>18 left, correct?</p> <p>19 A. Yes.</p> <p>20 Q. So that's the only position I'm really</p> <p>21 concerned about right now.</p> <p>22 A. What was the question again?</p> <p>23 Q. Did you work on a production line or did you</p> | <p style="text-align: right;">24</p> <p>1 Q. Do you understand what I'm saying? You're</p> <p>2 looking at me funny.</p> <p>3 A. No, I don't.</p> <p>4 Q. How long would your break normally be?</p> <p>5 A. 15 minutes.</p> <p>6 Q. So you could get a single 15-minute break</p> <p>7 over the course of your shift?</p> <p>8 A. I'd get two 15-minute breaks.</p> <p>9 Q. All right. Before going out on your</p> <p>10 break --</p> <p>11 MR. GOULD: Strike that.</p> <p>12 Q. How would you know that it was time to go</p> <p>13 out on break?</p> <p>14 A. I was given a relief person.</p> <p>15 Q. Somebody else from your group or your</p> <p>16 department?</p> <p>17 A. Yes.</p> <p>18 Q. And they'd say, "It's time to go on break"?</p> <p>19 A. Yes.</p> <p>20 Q. Would they tell you what time you had to be</p> <p>21 back from break?</p> <p>22 A. Yes.</p> <p>23 Q. How long would that be?</p>  |
| <p style="text-align: right;">23</p> <p>1 just roam the floor?</p> <p>2 A. I worked in the chiller.</p> <p>3 Q. Where is that? Is that kind of in between</p> <p>4 evis and debone?</p> <p>5 A. Yes.</p> <p>6 Q. And that's where you would check to make</p> <p>7 sure that the birds that were coming through were</p> <p>8 clean?</p> <p>9 A. Yes.</p> <p>10 Q. And then did you get any breaks during a</p> <p>11 normal shift? Did you get to take a break?</p> <p>12 A. Yes.</p> <p>13 Q. How many breaks did you get?</p> <p>14 A. Working in the chiller, I got, like, one</p> <p>15 break.</p> <p>16 Q. And how long would you normally work? How</p> <p>17 long was a shift?</p> <p>18 A. It depends on what time they let you off.</p> <p>19 Q. Was your schedule directly dependent on what</p> <p>20 the production departments were doing, or was your</p> <p>21 schedule basically determined within your own</p> <p>22 department, if you know?</p> <p>23 A. (No response.)</p>               | <p style="text-align: right;">25</p> <p>1 A. (No response.)</p> <p>2 Q. Did they say, "You have to be back in 15</p> <p>3 minutes," or did they say, "You have to be back in</p> <p>4 20 minutes," or did they say whether you had to be</p> <p>5 back at a certain time?</p> <p>6 A. They would give me a certain time to be</p> <p>7 back.</p> <p>8 Q. And once they told you that you were</p> <p>9 released for break, what would you do next?</p> <p>10 A. Go sanitize my gloves, take them off, hang</p> <p>11 them up, then go to break.</p> <p>12 Q. And you would take off your smock as well?</p> <p>13 A. Yes.</p> <p>14 Q. You could keep on your hair net and</p> <p>15 earplugs?</p> <p>16 A. Yes.</p> <p>17 Q. And your boots?</p> <p>18 A. Yes.</p> <p>19 Q. How long would it take you to do that, to</p> <p>20 take off and wash your gloves and your smock,</p> <p>21 anything that you had to take off before going out</p> <p>22 on break?</p> <p>23 A. I'm not sure, because the sink was on the</p> |

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| <p style="text-align: right;">26</p> <p>1 opposite side. We had to go to a sink.</p> <p>2 Q. And how would you know when it was time to</p> <p>3 come back from break? You would just watch the</p> <p>4 clock; is that right?</p> <p>5 A. Yes.</p> <p>6 Q. And when it got close to time, that's when</p> <p>7 you would come back?</p> <p>8 A. Yes.</p> <p>9 Q. How long before you were supposed to return</p> <p>10 from break would you leave?</p> <p>11 A. About five minutes earlier.</p> <p>12 Q. And what all did you do?</p> <p>13 A. I would go to the bathroom, then come on</p> <p>14 back in.</p> <p>15 Q. You would come back onto the production</p> <p>16 floor?</p> <p>17 A. Yes.</p> <p>18 Q. And you would put your smock back on and</p> <p>19 your gloves back on?</p> <p>20 A. And sanitize, and go back to my original</p> <p>21 spot.</p> <p>22 Q. And how long would it take you to do that?</p> <p>23 A. I'm not sure.</p>  | <p style="text-align: right;">28</p> <p>1 Q. Off of the hallway?</p> <p>2 A. Yes.</p> <p>3 Q. And there's a hallway off of the production</p> <p>4 floor, right?</p> <p>5 A. Yes.</p> <p>6 Q. And then there's offices off of that</p> <p>7 hallway?</p> <p>8 A. Yes.</p> <p>9 Q. And that's where you would turn in your</p> <p>10 paperwork?</p> <p>11 A. Yes.</p> <p>12 Q. And after that, you would clock out?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know whether you were paid until your</p> <p>15 clock-out time in that position as a tech?</p> <p>16 A. I don't know.</p> <p>17 Q. Would you ever review your paycheck and look</p> <p>18 at the hours that you were being paid for to</p> <p>19 determine whether or not you were being paid the</p> <p>20 hours you thought you had worked?</p> <p>21 A. No.</p> <p>22 Q. Did you ever raise any sort of complaint</p> <p>23 with your supervisor, during the time you were a</p>   |
| <p style="text-align: right;">27</p> <p>1 Q. What about at the end of your shift? What</p> <p>2 would you do then? How did you know that your</p> <p>3 shift was over? Did you have a scheduled shift?</p> <p>4 Would someone tell you it was time to leave, that</p> <p>5 your shift was over?</p> <p>6 A. It was scheduled, but I didn't get the</p> <p>7 chance to leave until all the chicken was out the</p> <p>8 chiller.</p> <p>9 Q. Okay. So there would be a point in time</p> <p>10 when the chicken would be out of the chiller, and</p> <p>11 that's when you knew it was okay for you to leave?</p> <p>12 A. Yes.</p> <p>13 Q. And then what would you do when the last</p> <p>14 chicken cleared the chiller?</p> <p>15 A. Take off my gloves after I washed, take them</p> <p>16 off, dry them, go turn all my paperwork in.</p> <p>17 Q. And then would you take off your smock?</p> <p>18 A. Yes.</p> <p>19 Q. Where would you turn in your paperwork? Was</p> <p>20 it on the production floor?</p> <p>21 A. No.</p> <p>22 Q. It was in the office?</p> <p>23 A. It was in the office.</p> | <p style="text-align: right;">29</p> <p>1 tech, about the hours for which you were paid?</p> <p>2 A. I can't remember.</p> <p>3 Q. Do you recall raising any issues, during the</p> <p>4 time that you were a tech, with anybody at the</p> <p>5 plant over the hours for which you were paid?</p> <p>6 A. I can't remember.</p> <p>7 Q. How did you learn about this lawsuit?</p> <p>8 A. Excuse me?</p> <p>9 Q. How did you learn about this lawsuit?</p> <p>10 A. There was a letter sent to -- sent out.</p> <p>11 Q. So you got a letter. And was there a form</p> <p>12 to fill out if you wanted to join?</p> <p>13 A. Yes.</p> <p>14 Q. And that's how you learned about the</p> <p>15 lawsuit?</p> <p>16 A. Yes.</p> <p>17 Q. And have you -- other than with your</p> <p>18 attorneys, have you discussed the lawsuit with</p> <p>19 anybody else?</p> <p>20 A. No.</p> <p>21 Q. Have you ever attended any meetings where</p> <p>22 the lawsuit was discussed?</p> <p>23 A. I don't know.</p> |

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| <p style="text-align: right;">30</p> <p>1 Q. Okay. I think those are the only questions<br/> 2 I have for you. Thank you very much.<br/> 3 A. You're welcome. Thank you.<br/> 4 MR. STEENSLAND: Just a couple.<br/> 5 BY MR. STEENSLAND:<br/> 6 Q. You mentioned you worked on the production<br/> 7 line?<br/> 8 A. Yes.<br/> 9 Q. How long did you work on the production<br/> 10 line?<br/> 11 A. I can't remember.<br/> 12 Q. And that's different from your job as a<br/> 13 tech?<br/> 14 A. Yes.<br/> 15 Q. Have you ever heard of the term "PPE" or<br/> 16 personal protective equipment?<br/> 17 A. Yes.<br/> 18 Q. Would you please tell us what items you<br/> 19 consider part of the personal protective<br/> 20 equipment?<br/> 21 A. The earplugs, the arm guard, the gloves, the<br/> 22 chain gloves, the hair nets. Basically everything<br/> 23 that we had to wear.</p> | <p style="text-align: right;">32</p> <p>1 CERTIFICATE<br/> 2<br/> 3 STATE OF ALABAMA<br/> 4 BARBOUR COUNTY<br/> 5<br/> 6 I hereby certify that the above and<br/> 7 foregoing deposition was taken down by me in<br/> 8 stenotype and the questions and answers thereto<br/> 9 were transcribed by means of computer-aided<br/> 10 transcription, and that the foregoing represents<br/> 11 a true and correct transcript of the testimony<br/> 12 given by said witness upon said hearing.<br/> 13 I further certify that I am neither of<br/> 14 counsel, nor kin to the parties to the action,<br/> 15 nor am I in anywise interested in the result of<br/> 16 said cause.<br/> 17<br/> 18<br/> 19 CYNTHIA M. NOAKES, Commissioner<br/> 20 Certified Court Reporter,<br/> 21 ACCR #327 - Expires 09/30/2008<br/> 22<br/> 23 Commission Expires 07/08/2009</p> |
| <p style="text-align: right;">31</p> <p>1 Q. Boots?<br/> 2 A. Yes.<br/> 3 Q. Earplugs?<br/> 4 A. (Witness nods head.)<br/> 5 Q. Anything we've left out?<br/> 6 A. I can't remember.<br/> 7 Q. Nothing further. Thank you.<br/> 8<br/> 9 (The deposition was concluded.)<br/> 10<br/> 11<br/> 12<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23</p>   |  |

**TAB 18**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,

Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,

Defendant.

\* \* \* \* \*

DEPOSITION OF TANGELA GLENN, taken  
pursuant to notice and stipulation on  
behalf of the Defendant, at Williams,  
Pothoff, Williams & Smith, 125 South  
Orange Avenue, Eufaula, Alabama, before  
Bridgette Mitchell, Shorthand Reporter  
and Notary Public in and for the State  
of Alabama at Large, on May 21, 2008,  
commencing at 2:50 p.m.

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| <p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Carl E. Underwood, III, Esquire</p> <p>5 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>6 163 W. Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 Jacob A. Kiser, Esquire</p> <p>10 WIGGINS, CHILDS, QUINN &amp; PANTAZIS</p> <p>11 The Kress Building</p> <p>12 301 Nineteenth Street North</p> <p>13 Birmingham, Alabama 35203</p> <p>14</p> <p>15 FOR THE DEFENDANT:</p> <p>16 Gary D. Fry, Esquire</p> <p>17 PELINO &amp; LENTZ</p> <p>18 One Liberty Place</p> <p>19 Thirty-second Floor</p> <p>20 Philadelphia, Pennsylvania 19103</p> <p>21</p> <p>22 ALSO PRESENT:</p> <p>23 Kenneth Ford</p>  | <p style="text-align: right;">4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 TANGELA GLENN is hereby waived and that</p> <p>6 said deposition may be introduced at</p> <p>7 the trial of this case or used in any</p> <p>8 other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of TANGELA GLENN is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p style="text-align: right;">5</p> <p>1 TANGELA GLENN, having first</p> <p>2 been duly sworn or affirmed to speak</p> <p>3 the truth, the whole truth, and nothing</p> <p>4 but the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Ms. Glenn, my name is Gary Fry. I'm</p> <p>8 one of the lawyers representing Equity</p> <p>9 Group Eufaula in connection with a</p> <p>10 lawsuit which you and a bunch of other</p> <p>11 folks have brought with respect to your</p> <p>12 employment there. Have you ever given</p> <p>13 a deposition before?</p> <p>14 A. No.</p> <p>15 Q. Let me briefly explain what's going to</p> <p>16 happen. I'm going to be asking</p> <p>17 questions which you will answer.</p> <p>18 Bridgette, our court reporter, will</p> <p>19 take down what we say. If you don't</p> <p>20 understand a question that I ask you,</p> <p>21 please let me know and I'll try and</p> <p>22 rephrase it so you will understand. If</p> <p>23 you don't hear a question that I ask or</p> |

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| <p style="text-align: right;">6</p> <p>1 any portion of it, let me know and I'll</p> <p>2 repeat it. The only thing that I do</p> <p>3 ask is let's not speak over one another</p> <p>4 because that makes it difficult for the</p> <p>5 court reporter. And so if you can wait</p> <p>6 until I get my question out, even if</p> <p>7 you anticipate what I'm going to say,</p> <p>8 and I'll let you complete your answer,</p> <p>9 we'll get a clean record here. And,</p> <p>10 also, you need to verbalize your</p> <p>11 answer. You can't nod or shake your</p> <p>12 head. Okay?</p> <p>13 A. Okay.</p> <p>14 Q. What's your home address?</p> <p>15 A. 1529 County Road 20, Clayton, Alabama</p> <p>16 36616.</p> <p>17 Q. And your date of birth?</p> <p>18 A. August 18, 1976.</p> <p>19 Q. Are you currently employed?</p> <p>20 A. No.</p> <p>21 Q. At one point you were employed by</p> <p>22 Equity?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">8</p> <p>1 Q. And did you work any other jobs during</p> <p>2 the time you worked for Equity?</p> <p>3 A. No, sir.</p> <p>4 Q. And what did you do in debone?</p> <p>5 A. I was a bone sampler.</p> <p>6 Q. Pardon?</p> <p>7 A. Bone sampler.</p> <p>8 Q. And what did you do as a bone sampler?</p> <p>9 A. We stood at the end of the line and as</p> <p>10 the breast meat came down, we checked</p> <p>11 it for bones.</p> <p>12 Q. And how did you do that, with your --</p> <p>13 with your hands?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Did you work with a knife?</p> <p>16 A. No, sir.</p> <p>17 Q. Did you work with scissors?</p> <p>18 A. No, sir.</p> <p>19 Q. And that's the only job you had while</p> <p>20 you were with the company?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And who was your supervisor?</p> <p>23 A. Vera Marshall.</p>                        |
| <p style="text-align: right;">7</p> <p>1 Q. And when did you work for the company?</p> <p>2 A. May of 2005 till January 2006.</p> <p>3 Q. And for what reason did your employment</p> <p>4 end?</p> <p>5 A. Pointing out.</p> <p>6 Q. Pardon?</p> <p>7 A. I was pointed out.</p> <p>8 Q. And can I assume that you were</p> <p>9 terminated because of violation of the</p> <p>10 attendance policy?</p> <p>11 A. Yes.</p> <p>12 Q. During that period of time that you</p> <p>13 worked for Equity, what department did</p> <p>14 you work in?</p> <p>15 A. Debone.</p> <p>16 Q. What shift?</p> <p>17 A. First.</p> <p>18 Q. And what were your hours?</p> <p>19 A. From 7:30 to 4:30.</p> <p>20 Q. Seven-thirty a.m.?</p> <p>21 A. Yes, sir, to 4:30 p.m.</p> <p>22 Q. Did you work any other shifts?</p> <p>23 A. No, sir.</p>   | <p style="text-align: right;">9</p> <p>1 Q. Vera Marshall?</p> <p>2 A. Yes, sir.</p> <p>3 Q. What was your rate of pay?</p> <p>4 A. I started out at 7.15; 7.40 when it</p> <p>5 ended.</p> <p>6 Q. How many hours a week did you work?</p> <p>7 A. Forty.</p> <p>8 Q. What's your understanding of what your</p> <p>9 claim is in this lawsuit?</p> <p>10 A. I'm underpaid.</p> <p>11 Q. Underpaid for what?</p> <p>12 A. For hours worked.</p> <p>13 Q. And what is your understanding of the</p> <p>14 work you performed that you weren't</p> <p>15 paid for?</p> <p>16 A. Well, I'm entitled to be paid for hours</p> <p>17 that were worked.</p> <p>18 Q. And you believe there were hours that</p> <p>19 you worked for which you weren't paid?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And what work did you do during that</p> <p>22 time period for which you believe you</p> <p>23 weren't paid?</p> |

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| <p style="text-align: right;">10</p> <p>1 A. Well, during the process of -- at the<br/> 2 beginning of the shift when you had to<br/> 3 get dressed and at -- during the breaks<br/> 4 and the end of the shift when you had<br/> 5 to undress and wash up and stuff.<br/> 6 Q. Just the beginning and the end of the<br/> 7 shift?<br/> 8 A. And during breaks.<br/> 9 Q. And how did you get that understanding<br/> 10 of the claim?<br/> 11 A. Well, at the start of the shift when<br/> 12 you have to go in, we would have to go<br/> 13 through the double doors. We would<br/> 14 have to stop and sanitize our boots,<br/> 15 and then we have to stop again to get<br/> 16 dressed; and then during break, we have<br/> 17 to do the same thing and wash up and<br/> 18 stuff.<br/> 19 Q. How did you hear about the lawsuit?<br/> 20 A. Through an ad.<br/> 21 Q. And did you talk to folks about it?<br/> 22 A. No, sir.<br/> 23 Q. When did you see the ad?</p> | <p style="text-align: right;">12</p> <p>1 liners of the gloves and we had the<br/> 2 rubber gloves. We had the smocks,<br/> 3 aprons, arm sleeves and rubber boots,<br/> 4 earplugs.<br/> 5 Q. You got those.<br/> 6 A. Okay.<br/> 7 Q. So let me run down the list and make<br/> 8 sure we have them. Hair net?<br/> 9 A. Uh-huh.<br/> 10 Q. The earplugs, glasses, liners and<br/> 11 gloves, the smock, the apron, the arm<br/> 12 sleeves, and boots?<br/> 13 A. Yes.<br/> 14 Q. Is that correct?<br/> 15 A. Yes, sir.<br/> 16 Q. Anything else?<br/> 17 A. Not that I can remember.<br/> 18 Q. You weren't required to wear plastic<br/> 19 arm guards, were you?<br/> 20 A. No, sir.<br/> 21 Q. Were you -- were you required to wear<br/> 22 each of these other items?<br/> 23 A. Yes, sir.</p>   |
| <p style="text-align: right;">11</p> <p>1 A. It was a flyer that -- I was in some<br/> 2 store and someone gave me a paper with<br/> 3 it on there.<br/> 4 Q. Did you hear about it after your<br/> 5 employment had ended?<br/> 6 A. Yes, sir.<br/> 7 Q. When you were employed at Equity, were<br/> 8 you a member of the union?<br/> 9 A. No, sir.<br/> 10 Q. Did you review any documents to prepare<br/> 11 for this deposition?<br/> 12 A. No.<br/> 13 Q. Did you speak with anyone with respect<br/> 14 to this deposition besides your<br/> 15 lawyers?<br/> 16 A. No, sir.<br/> 17 Q. Can you identify for me the items of<br/> 18 clothing and equipment that you wore on<br/> 19 a daily basis when you worked as a bone<br/> 20 sampler in the debone department in<br/> 21 2005 through '6?<br/> 22 A. Okay. We have hair nets, earplugs,<br/> 23 safety glasses. We had the inside</p>   | <p style="text-align: right;">13</p> <p>1 Q. And did somebody tell you you were<br/> 2 required to wear them?<br/> 3 A. Yes, sir.<br/> 4 Q. And who told you that?<br/> 5 A. I was just told by a supervisor that's<br/> 6 what we had to wear.<br/> 7 Q. And it was your understanding you were<br/> 8 required to wear the arm sleeves?<br/> 9 A. Yes, sir.<br/> 10 Q. Did everybody that you could observe in<br/> 11 the debone department wear all these<br/> 12 items of equipment?<br/> 13 A. Yes, sir.<br/> 14 Q. Which of these items that you have<br/> 15 identified were issued to you by the<br/> 16 company?<br/> 17 A. Well, all of them we would get, like,<br/> 18 on a Monday until, like, we worked<br/> 19 till -- I would say, like, if my gloves<br/> 20 got torn or we lost something, we would<br/> 21 have to go and replace it, and then it<br/> 22 would be deducted from our paycheck<br/> 23 every week.</p> |



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| <p style="text-align: right;">14</p> <p>1 Q. So did you get everything from the</p> <p>2 company that you wore?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Including the boots?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And which of these items that you</p> <p>7 identified did you get on a daily</p> <p>8 basis?</p> <p>9 A. On a daily basis, I probably would get</p> <p>10 gloves. That's about all, because</p> <p>11 pretty much everything else would kind</p> <p>12 of hold up for a couple of days until</p> <p>13 it was time to get the free supplies.</p> <p>14 Q. What about a smock?</p> <p>15 A. Well, the smock we got on a daily basis</p> <p>16 because we had to leave them to be</p> <p>17 cleaned.</p> <p>18 Q. What about a hair net?</p> <p>19 A. Hair net, well, we'd probably get two</p> <p>20 or three at the beginning of the week,</p> <p>21 so those were good for a couple of</p> <p>22 days.</p> <p>23 Q. And what, if any, of these items could</p>  | <p style="text-align: right;">16</p> <p>1 floor?</p> <p>2 A. We had to be on the production floor.</p> <p>3 Q. And the plastic apron you had to put on</p> <p>4 on the production floor?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And the plastic sleeves you had to put</p> <p>7 on on the production floor?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And does the same hold true for the</p> <p>10 cotton liners and the rubber gloves?</p> <p>11 A. Yes, sir.</p> <p>12 Q. The hair net you could put on before</p> <p>13 you entered the --</p> <p>14 A. Yes.</p> <p>15 Q. -- production floor?</p> <p>16 A. Uh-huh.</p> <p>17 Q. And the boots you could wear from home?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And the earplugs you could put on at</p> <p>20 any time; correct?</p> <p>21 A. Before you got on -- well, before you</p> <p>22 went to your line for the day.</p> <p>23 Q. So am I correct that because you were</p> |
| <p style="text-align: right;">15</p> <p>1 you wear from home?</p> <p>2 A. We have to put it on at the plant.</p> <p>3 Well, we -- we could wear our boots</p> <p>4 from home, but we have to sanitize them</p> <p>5 before we go onto the floor.</p> <p>6 Q. When you weren't on the job at the</p> <p>7 plant, where were these items stored?</p> <p>8 A. There was lockers on -- in the break</p> <p>9 room area and the bathrooms and stuff</p> <p>10 there was lockers.</p> <p>11 Q. Where did you put on each of these</p> <p>12 items before you started your actual</p> <p>13 work?</p> <p>14 A. Over by the -- the rack where you get</p> <p>15 dressed at.</p> <p>16 Q. Is that the wash rack --</p> <p>17 A. Well, it's right beside -- right there</p> <p>18 beside the wash rack.</p> <p>19 Q. And is the -- is that area within the</p> <p>20 debone production floor?</p> <p>21 A. Yes, sir.</p> <p>22 Q. So am I correct that you were required</p> <p>23 to put on your smock on the production</p> | <p style="text-align: right;">17</p> <p>1 required to put most of these items on</p> <p>2 when you were in the production floor,</p> <p>3 that you did not put them on until you</p> <p>4 actually entered the production floor;</p> <p>5 correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Could you put these items on while you</p> <p>8 were working in the production room?</p> <p>9 A. No, sir.</p> <p>10 Q. You stood and put them on?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And you did not use a knife or scissors</p> <p>13 with your job?</p> <p>14 A. No.</p> <p>15 Q. And did you use any other tools or</p> <p>16 equipment?</p> <p>17 A. Well, no other than a scale to weigh</p> <p>18 fat from the meat.</p> <p>19 Q. Your shift started at 7:30 a.m.?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And you were required to be on the</p> <p>22 production floor at the bone sampler</p> <p>23 site at that time?</p>    |

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| <p style="text-align: right;">18</p> <p>1 A. Yes, sir.</p> <p>2 Q. And your shift ended at 4:30 p.m.?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And how many breaks did you get?</p> <p>5 A. Two.</p> <p>6 Q. How long were they?</p> <p>7 A. Thirty minutes.</p> <p>8 Q. Were those breaks unpaid?</p> <p>9 A. Well, we didn't have to clock out for</p> <p>10 them, so we should have been paid.</p> <p>11 Q. What's your understanding of whether</p> <p>12 they were paid or not?</p> <p>13 A. No, sir.</p> <p>14 Q. They were not paid?</p> <p>15 A. No, sir.</p> <p>16 Q. Where did you usually take your breaks?</p> <p>17 A. Down in the break area.</p> <p>18 Q. The debone break room?</p> <p>19 A. It was down -- I think it was the evis</p> <p>20 break room.</p> <p>21 Q. Did you have a choice?</p> <p>22 A. Not that I know of.</p> <p>23 Q. There are two break rooms, are there</p>                                       | <p style="text-align: right;">20</p> <p>1 your break?</p> <p>2 A. Because when it's time for the break,</p> <p>3 the line leader, the supervisor, let</p> <p>4 their people know whoever is cutting,</p> <p>5 either loading the birds onto the line,</p> <p>6 and one at a time they would start</p> <p>7 coming off the line and --</p> <p>8 Q. So they would come off the line in a</p> <p>9 staggered fashion?</p> <p>10 A. Well, yes, sir. And then I would have</p> <p>11 to wait. As a bone sampler, I have to</p> <p>12 wait at the end of the line until the</p> <p>13 last piece of meat comes through.</p> <p>14 Q. After your break was over, did you have</p> <p>15 to go back when the -- when the other</p> <p>16 people went back?</p> <p>17 A. Yes, because I had to be in my position</p> <p>18 before the meat got there.</p> <p>19 Q. But you didn't have to be -- you were</p> <p>20 at sort of the end of the line, weren't</p> <p>21 you?</p> <p>22 A. Yes. I would be the last one to leave</p> <p>23 off the line.</p> |
| <p style="text-align: right;">19</p> <p>1 not?</p> <p>2 A. Yes, sir.</p> <p>3 Q. There's an evis break room and a debone</p> <p>4 break room; correct?</p> <p>5 A. Yes.</p> <p>6 Q. And the evis break room is across the</p> <p>7 hall from the evis department?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And the debone break room is across the</p> <p>10 hall from the deboning department?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And did you have a choice to either go</p> <p>13 to the evis break room or the debone</p> <p>14 break room?</p> <p>15 A. Oh, you had a choice. You could have</p> <p>16 went to either one, but it was like the</p> <p>17 debone break room, it would be full of</p> <p>18 people from evis and people on the</p> <p>19 phone. So it was, like, some in both</p> <p>20 break rooms.</p> <p>21 Q. But you had your choice?</p> <p>22 A. Yes, sir.</p> <p>23 Q. How did you know it was time to take</p> | <p style="text-align: right;">21</p> <p>1 Q. But you -- you didn't -- you only had</p> <p>2 to be at your position on the line at</p> <p>3 the end when the meat got there, didn't</p> <p>4 you, after break?</p> <p>5 A. Yes. I had to be there before the meat</p> <p>6 got there.</p> <p>7 Q. Well, you had to be there when the meat</p> <p>8 got there; correct?</p> <p>9 A. Before.</p> <p>10 Q. How much time before?</p> <p>11 A. Probably -- probably about two, three</p> <p>12 minutes before the meat got there,</p> <p>13 because if the meat would have came</p> <p>14 down and I wasn't there and there was a</p> <p>15 bone in the meat, then I could have</p> <p>16 been written up.</p> <p>17 Q. I understand that. But you had to be</p> <p>18 there when the meat got there; correct?</p> <p>19 A. Well, we -- we was told by our</p> <p>20 supervisor we had to be there before</p> <p>21 the meat got there.</p> <p>22 Q. Did the people come back from break in</p> <p>23 a staggered fashion?</p>                       |

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| <p style="text-align: right;">22</p> <p>1 A. Well, on the line that I was on, some<br/>2 was there in their position on time and<br/>3 some wasn't.<br/>4 Q. But the people who were towards the end<br/>5 of the line, they didn't have to come<br/>6 back when the people came back that<br/>7 were at the beginning of the line, did<br/>8 they?<br/>9 A. Everyone should have been back at the<br/>10 same time.<br/>11 Q. But that didn't work -- it didn't work<br/>12 that way, did it?<br/>13 A. No, sir.<br/>14 Q. What time did you usually arrive at the<br/>15 plant?<br/>16 A. Around seven o'clock.<br/>17 Q. Did you have to clear security to get<br/>18 onto the property?<br/>19 A. Well, we had a -- when I was there, we<br/>20 had the little stickers on the car and<br/>21 when they see the sticker they know<br/>22 you're good and you can go on through.<br/>23 Q. Were you ever searched?</p>   | <p style="text-align: right;">24</p> <p>1 A. Well, sometimes the people that --<br/>2 sanitation comes in at night, and<br/>3 sometimes they have the floor ready to<br/>4 go in there but they have to inspect<br/>5 the floor and make sure that the<br/>6 machines and everything is clean before<br/>7 we can go in and do our job. And then<br/>8 sometimes -- I will say probably<br/>9 something in evis done went wrong and<br/>10 we don't have any work to do so we<br/>11 can't go onto the floor until, you<br/>12 know, it's been released to go onto it.<br/>13 Q. So sometimes you were told you weren't<br/>14 permitted to go on the floor yet?<br/>15 A. Yes, sir.<br/>16 Q. How often did you have to wait in line<br/>17 to get your supplies?<br/>18 A. Well, it all depends. Sometimes the<br/>19 line be real long and sometimes it<br/>20 don't. So at the most, probably about<br/>21 ten minutes.<br/>22 Q. At the most, you waited ten minutes?<br/>23 A. Yes, sir. It depends on who all in</p>           |
| <p style="text-align: right;">23</p> <p>1 A. No, sir.<br/>2 Q. Were any of your personal possessions<br/>3 ever searched?<br/>4 A. No, sir.<br/>5 Q. Take me through what you did after you<br/>6 parked your car.<br/>7 A. After I parked my car, I would go in<br/>8 and I would clock in. And after I<br/>9 clock in, I will go and -- to my locker<br/>10 and get my supplies. If I needed<br/>11 something, I would go to the supply<br/>12 room and wait in line to get those.<br/>13 And then probably about -- I'd say<br/>14 probably about 7:20, I would go and --<br/>15 go -- if the floor had been released to<br/>16 go onto the production floor, I would<br/>17 go in and I would stop and sanitize my<br/>18 boots, and then I go to the wash area<br/>19 and we get dressed and we'll wash up<br/>20 and I'll get in my position.<br/>21 Q. When you say "when the floor was<br/>22 released to go into the production<br/>23 floor," what do you mean by that?</p> | <p style="text-align: right;">25</p> <p>1 front of you and what all they have to<br/>2 get.<br/>3 Q. And how long did that happen -- I mean<br/>4 how often did that happen in a week?<br/>5 A. Well, I tried not to get in line that<br/>6 regular. I tried to keep -- you know,<br/>7 keep my stuff that I needed, supplies<br/>8 and stuff, so I didn't really -- I<br/>9 wasn't a regular person in line to get<br/>10 supplies.<br/>11 Q. Well, if you -- if you got there at<br/>12 seven o'clock and you didn't need to<br/>13 get supplies, what did you do before<br/>14 you went out on the production floor?<br/>15 A. I would sit in the break room until<br/>16 about 7:25. We had to wait at least<br/>17 five minutes before 7:30 before we<br/>18 could swipe -- clock in. So I would<br/>19 just sit there until it's time to go<br/>20 in. And then if it's not -- if they<br/>21 say we can't go in, then we'd probably,<br/>22 you know, just wait around in the<br/>23 hallway or either we'd go back to the</p> |

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| <p style="text-align: right;">26</p> <p>1 break room and sit down until they</p> <p>2 released us to go to work.</p> <p>3 Q. So you swiped in right before you went</p> <p>4 onto the production floor?</p> <p>5 A. Probably five minutes before. Okay.</p> <p>6 Like, if I have to be there at 7:30, by</p> <p>7 7:25 we -- we're -- we're allowed to</p> <p>8 clock in then.</p> <p>9 Q. So you weren't allowed to clock in</p> <p>10 before 7:25?</p> <p>11 A. No, sir.</p> <p>12 Q. And when you went to the -- if you</p> <p>13 didn't have to pick up anything at the</p> <p>14 supply desk and you said you went to</p> <p>15 the break room, what did you do in the</p> <p>16 break room?</p> <p>17 A. I was just there in the break room</p> <p>18 until it was time to go.</p> <p>19 Q. What did you do?</p> <p>20 A. I'd sit there and probably talk to</p> <p>21 other people.</p> <p>22 Q. There were other people in there?</p> <p>23 A. Uh-huh. (Witness nods head.)</p>                        | <p style="text-align: right;">28</p> <p>1 A. No, I didn't have to because I didn't</p> <p>2 have to be at my workstation until</p> <p>3 seven -- probably 7:30.</p> <p>4 Q. Approximately what time did you</p> <p>5 leave -- try to leave the break room to</p> <p>6 go onto the production floor?</p> <p>7 A. Well, on the mornings that I knew that</p> <p>8 we could get in there, like if I go</p> <p>9 down there and there ain't nobody</p> <p>10 saying there's no problem or</p> <p>11 anything -- so if I have to be on my</p> <p>12 line by 7:30, I should try to leave</p> <p>13 probably about 7:20, somewhere -- a</p> <p>14 couple minutes to give me time to get</p> <p>15 in there and, you know, do what I've</p> <p>16 got to do to get on line.</p> <p>17 Q. And sometimes you -- so that gave you</p> <p>18 ten minutes?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And did sometimes -- were there times</p> <p>21 when you didn't leave yourself ten</p> <p>22 minutes or you didn't have ten minutes,</p> <p>23 you had less time?</p> |
| <p style="text-align: right;">27</p> <p>1 Q. Eating?</p> <p>2 A. Some was eating and some was just</p> <p>3 sitting there waiting to go to work.</p> <p>4 Q. Did some people arrive at the plant</p> <p>5 after you had gotten there?</p> <p>6 A. Most likely it would have been.</p> <p>7 Q. I mean, you came at seven o'clock --</p> <p>8 A. I tried --</p> <p>9 Q. -- pretty much every day.</p> <p>10 A. Well, just about. If I had to ride</p> <p>11 with someone or something like that or</p> <p>12 somebody had to bring me.</p> <p>13 Q. From what you could see, did some</p> <p>14 people arrive later than that?</p> <p>15 A. Yes, sir, because there had been people</p> <p>16 that been late, late for work.</p> <p>17 Q. But you had some time to wait in the</p> <p>18 break room before the shift started;</p> <p>19 correct?</p> <p>20 A. Uh-huh.</p> <p>21 Q. So you didn't have to get there at</p> <p>22 seven o'clock in order to be at your</p> <p>23 workstation on time, did you?</p> | <p style="text-align: right;">29</p> <p>1 A. Well, sure. There -- there have been</p> <p>2 times, you know, I probably rushed and,</p> <p>3 you know, I probably was a little late</p> <p>4 getting on my line.</p> <p>5 Q. Were you ever late that product started</p> <p>6 to come off and you weren't there?</p> <p>7 A. Yes, sir, there was a time that I</p> <p>8 was -- yes.</p> <p>9 Q. How long did it take you to walk from</p> <p>10 your break area to your workstation --</p> <p>11 into the debone room?</p> <p>12 A. About three to four minutes.</p> <p>13 Q. Did you ever time it?</p> <p>14 A. No, sir, I didn't time it.</p> <p>15 Q. Now, once you entered the production</p> <p>16 floor, you had to put on your smock,</p> <p>17 your apron, and your -- your sleeves;</p> <p>18 correct?</p> <p>19 A. And my gloves and liner.</p> <p>20 Q. And approximately how many minutes did</p> <p>21 it take you to put those items on?</p> <p>22 A. Probably five, six minutes, somewhere</p> <p>23 around in there.</p>                 |

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| <p style="text-align: right;">30</p> <p>1 Q. Did it take some people longer than</p> <p>2 that?</p> <p>3 A. It could have. It all depends on what</p> <p>4 time they decide to come in and what</p> <p>5 all -- because some probably come in</p> <p>6 and get right on it and some probably</p> <p>7 wouldn't.</p> <p>8 Q. So some people --</p> <p>9 A. But I always tried to go and get in my</p> <p>10 position like I'm supposed to.</p> <p>11 Q. So some people could do it quicker?</p> <p>12 A. Some probably could.</p> <p>13 Q. Did some people wait until the last</p> <p>14 minute to try and get in there?</p> <p>15 MR. UNDERWOOD: And don't</p> <p>16 speculate. Just if you know.</p> <p>17 Q. If you know, if you saw.</p> <p>18 A. I -- not that I know of.</p> <p>19 Q. What did you have to do to go on break?</p> <p>20 A. Well, before I went on break, I had to</p> <p>21 wait until the last piece of meat came</p> <p>22 down the belt and then I would have to</p> <p>23 go and wash up my gloves and -- I'd</p> | <p style="text-align: right;">32</p> <p>1 Q. And you hung it up?</p> <p>2 A. Yes, sir.</p> <p>3 Q. After you washed it?</p> <p>4 A. Yes, after I washed it, hang it up.</p> <p>5 Q. As best you were able to observe, did</p> <p>6 everybody wash off before they left the</p> <p>7 room before they took off their aprons</p> <p>8 and so forth?</p> <p>9 A. As far as I can remember. I can't just</p> <p>10 recall everyone doing that because</p> <p>11 there's some times, you know, some of</p> <p>12 them -- like the line, the people that</p> <p>13 work on the line, they'll probably just</p> <p>14 run over there and they'll probably</p> <p>15 just wash it off and just take -- wash</p> <p>16 off their gloves and they won't clean</p> <p>17 the apron and stuff, just hang it up,</p> <p>18 because I guess they be in a hurry to</p> <p>19 get to break because they be wanting</p> <p>20 their whole breaks.</p> <p>21 Q. So not everybody washed off the way you</p> <p>22 did?</p> <p>23 A. No, sir.</p>   |
| <p style="text-align: right;">31</p> <p>1 clean and I'd wash my apron off. Then</p> <p>2 I have to take all that off and hang it</p> <p>3 up before I go to break. And before we</p> <p>4 go to break, we have to also stop by</p> <p>5 and sanitize our boots before we go out</p> <p>6 in the hallway.</p> <p>7 Q. Stop and what?</p> <p>8 A. Sanitize our boots before we go out in</p> <p>9 the hallway.</p> <p>10 Q. And can you estimate for me how many</p> <p>11 minutes this process took?</p> <p>12 A. Well, probably about six or seven</p> <p>13 minutes, because you have people in</p> <p>14 front of you still in there.</p> <p>15 Q. Were you ever the first one there?</p> <p>16 A. To the wash station?</p> <p>17 Q. Yeah.</p> <p>18 A. No, sir, because I was the last one to</p> <p>19 leave the line.</p> <p>20 Q. And you took everything off except your</p> <p>21 hair net, your earplugs, and your</p> <p>22 boots?</p> <p>23 A. Yes, sir.</p>  | <p style="text-align: right;">33</p> <p>1 Q. Tell me what you did when you came off</p> <p>2 break. How did you know it was time</p> <p>3 for you to go back to work?</p> <p>4 A. Oh, because when I go -- when I go to</p> <p>5 break, I look at the clock and see what</p> <p>6 time it is because I know what time</p> <p>7 that I should be back in my position.</p> <p>8 And so I will leave probably about five</p> <p>9 or six minutes before the break is over</p> <p>10 with so that I'd have time to sanitize</p> <p>11 my boots and wash and get all my</p> <p>12 supplies back on and wash up and get</p> <p>13 back on line.</p> <p>14 Q. Did some people on the debone line go</p> <p>15 back to -- go off break before you?</p> <p>16 A. On -- go off break before me?</p> <p>17 Q. Yes.</p> <p>18 A. Well, everybody was gone before I was.</p> <p>19 Because I was the bone sampler, I was</p> <p>20 at the end of the line so I was the</p> <p>21 last one to leave off the line.</p> <p>22 Q. So you didn't have to be back at the</p> <p>23 same time the other people were?</p> |



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| <p style="text-align: right;">34</p> <p>1 A. Yes, sir.</p> <p>2 Q. Okay. At the end of the day, what did</p> <p>3 you do?</p> <p>4 A. At the end of the day, I would still</p> <p>5 have to wait until the last piece of</p> <p>6 meat comes down the belt. And then</p> <p>7 after that's done, I will finish up my</p> <p>8 paperwork and then I would have to go</p> <p>9 and wash -- wash myself down, my gloves</p> <p>10 and my apron and stuff and I takes it</p> <p>11 off, take my smock off, and we would --</p> <p>12 sanitize my boots and go out. And then</p> <p>13 we have to put our aprons -- not our</p> <p>14 aprons, but our smocks in a hamper</p> <p>15 outside for the company to clean them.</p> <p>16 And I would go on to the break room and</p> <p>17 clock out.</p> <p>18 Q. And how long do you estimate that</p> <p>19 process took you?</p> <p>20 A. Five or six minutes.</p> <p>21 Q. What was your understanding of when the</p> <p>22 time started for which you were to be</p> <p>23 paid?</p> | <p style="text-align: right;">36</p> <p>1 A. Uh-huh.</p> <p>2 Q. Did you or have you ever made any</p> <p>3 calculations as to the time you worked</p> <p>4 for which you weren't paid?</p> <p>5 A. No, sir.</p> <p>6 Q. Did you ever work any overtime?</p> <p>7 A. I think there was times that we had to</p> <p>8 work -- on some weekends we had to</p> <p>9 work.</p> <p>10 Q. Were you paid time and a half for that?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And did you ever have any complaints</p> <p>13 about your overtime pay computation?</p> <p>14 A. No, sir.</p> <p>15 Q. Besides the problem that you had with</p> <p>16 attendance at the end when you were</p> <p>17 terminated for the point policy, were</p> <p>18 you ever written up for anything?</p> <p>19 A. No, sir.</p> <p>20 MR. FRY: That's all.</p> <p>21 MR. UNDERWOOD: No follow-up.</p> <p>22 (The deposition of Tangelia Glenn</p> <p>23 concluded at 3:20 p.m. on 5/21/08.)</p>  |
| <p style="text-align: right;">35</p> <p>1 A. From 7:30 a.m.</p> <p>2 Q. And what was your understanding of the</p> <p>3 time for which you were to be paid</p> <p>4 stopped?</p> <p>5 A. Well, I assume that I would be paid</p> <p>6 till the time that I clocked out,</p> <p>7 whatever that is.</p> <p>8 Q. When you swiped out at the end?</p> <p>9 A. Yes, sir. But it was always -- I was</p> <p>10 always paid until 4:30.</p> <p>11 Q. Did you ever have occasion to complain</p> <p>12 to your supervisor about your paycheck?</p> <p>13 A. No, sir.</p> <p>14 Q. Did you keep any kind of diary,</p> <p>15 notebook, or notes showing what you</p> <p>16 believe to be the hours that you</p> <p>17 worked?</p> <p>18 A. No, sir.</p> <p>19 Q. Did you -- do you know of anyone who</p> <p>20 did?</p> <p>21 A. No, sir.</p> <p>22 Q. You said early on that you have a claim</p> <p>23 here for unpaid hours.</p>  | <p style="text-align: right;">37</p> <p>1 * * * * *</p> <p>2 REPORTER'S CERTIFICATE</p> <p>3 * * * * *</p> <p>4 STATE OF ALABAMA</p> <p>5 COUNTY OF MONTGOMERY</p> <p>6 I do hereby certify that the above</p> <p>7 and foregoing transcript was taken down</p> <p>8 by me in stenotype, and the questions</p> <p>9 and answers thereto were transcribed by</p> <p>10 means of computer-aided transcription,</p> <p>11 and that the foregoing represents a</p> <p>12 true and correct transcript of the</p> <p>13 testimony given by said witness.</p> <p>14 I further certify that I am neither</p> <p>15 of counsel, nor any relation to the</p> <p>16 parties to the action, nor am I anywise</p> <p>17 interested in the result of said case.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 <u>Bridgette W. Mitchell,</u></p> <p>22 Certified Court Reporter and</p> <p>23 Commissioner for the State of</p> <p>Alabama at Large</p> <p>ACCR No. 231 - Expires 9/30/08</p> <p>MY COMMISSION EXPIRES 1/25/2010</p> |

**TAB 19**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,

Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,

Defendant.

\* \* \* \* \*

DEPOSITION OF ANNIE GLOVER-PATRICK,  
taken pursuant to notice and  
stipulation on behalf of the Defendant,  
at Williams, Pothoff, Williams & Smith,  
125 South Orange Avenue, Eufaula,  
Alabama, before Bridgette Mitchell,  
Shorthand Reporter and Notary Public in  
and for the State of Alabama at Large,  
on May 21, 2008, commencing at  
12:47 p.m.



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|   |   |
|---|---|
| <p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Carl E. Underwood, III, Esquire</p> <p>5 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>6 163 W. Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 Robert Joseph Camp, Esquire</p> <p>10 THE COCHRAN FIRM</p> <p>11 505 20th Street North</p> <p>12 Suite 825</p> <p>13 Birmingham, Alabama 35203</p> <p>14</p> <p>15 FOR THE DEFENDANT:</p> <p>16 Gary D. Fry, Esquire</p> <p>17 PELINO &amp; LENTZ</p> <p>18 One Liberty Place</p> <p>19 Thirty-second Floor</p> <p>20 Philadelphia, Pennsylvania 19103</p> <p>21</p> <p>22 ALSO PRESENT:</p> <p>23 Felicia Laseter</p>  | <p style="text-align: right;">4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 ANNIE GLOVER-PATRICK is hereby waived</p> <p>6 and that said deposition may be</p> <p>7 introduced at the trial of this case or</p> <p>8 used in any other manner by either</p> <p>9 party hereto provided for by the</p> <p>10 Statute, regardless of the waiving of</p> <p>11 the filing of same.</p> <p>12 It is further stipulated and</p> <p>13 agreed by and between the parties</p> <p>14 hereto and the witness that the</p> <p>15 signature of the witness to this</p> <p>16 deposition is hereby waived.</p> <p>17</p> <p>18 INDEX</p> <p>19</p> <p>20 EXAMINATION Page</p> <p>21 By Mr. Fry..... 5</p> <p>22 By Mr. Underwood..... 57</p> <p>23 By Mr. Fry..... 60</p>                |
| <p style="text-align: right;">3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of ANNIE GLOVER-PATRICK is</p> <p>6 taken pursuant to notice and</p> <p>7 stipulation on behalf of the Defendant;</p> <p>8 that all formalities with respect to</p> <p>9 procedural requirements are waived;</p> <p>10 that said deposition may be taken</p> <p>11 before Bridgette Mitchell, Shorthand</p> <p>12 Reporter and Notary Public in and for</p> <p>13 the State of Alabama at Large, without</p> <p>14 the formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p style="text-align: right;">5</p> <p>1 ANNIE GLOVER-PATRICK, having</p> <p>2 first been duly sworn or affirmed to</p> <p>3 speak the truth, the whole truth, and</p> <p>4 nothing but the truth, testified as</p> <p>5 follows:</p> <p>6 EXAMINATION</p> <p>7 BY MR. FRY:</p> <p>8 Q. Ms. Glover-Patrick --</p> <p>9 A. You can say Patrick. That would be</p> <p>10 fine.</p> <p>11 Q. Ms. Patrick? Good. My name is Gary</p> <p>12 Fry and I'm one of the lawyers for</p> <p>13 Equity Group Eufaula that operates the</p> <p>14 plant up in Baker Hill. And we've</p> <p>15 asked you here today to put certain</p> <p>16 questions to you with respect to a</p> <p>17 lawsuit as to which you and a bunch of</p> <p>18 other folks are a party. Have you ever</p> <p>19 been deposed before?</p> <p>20 A. Been to who?</p> <p>21 Q. Have you ever been in a deposition</p> <p>22 before?</p> <p>23 A. No.</p> |

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|---|---|
| <p style="text-align: right;">6</p> <p>1 Q. Let me just explain it briefly. It's</p> <p>2 pretty simple. I'll be asking the</p> <p>3 questions. You'll be providing the</p> <p>4 answers. Bridgette, the court</p> <p>5 reporter, will be taking down what I</p> <p>6 say and what you say. If you don't</p> <p>7 understand anything that I say or my</p> <p>8 question, let me know and I'll try to</p> <p>9 rephrase it so you will understand it.</p> <p>10 If you don't hear anything or something</p> <p>11 or a portion of what I say, let me know</p> <p>12 and I'll repeat it.</p> <p>13 A. Okay.</p> <p>14 Q. If you answer a question, I will assume</p> <p>15 that you heard and understood it and</p> <p>16 answered truthfully. Only two</p> <p>17 guidelines: I won't talk over you and</p> <p>18 please don't talk over me so she can</p> <p>19 get a clean record. Okay?</p> <p>20 A. All right.</p> <p>21 Q. And your answers must be verbal. She</p> <p>22 can't take down a nod of the head or a</p> <p>23 shake.</p> | <p style="text-align: right;">8</p> <p>1 A. Right now I do supply because of my</p> <p>2 wrist.</p> <p>3 Q. You hurt your wrist while on the job?</p> <p>4 A. I did.</p> <p>5 Q. And how long have you been working in</p> <p>6 supply?</p> <p>7 A. Ever since last year, in July.</p> <p>8 Q. So from July of '07, you've been in</p> <p>9 supply?</p> <p>10 A. Yes.</p> <p>11 Q. Prior to hurting your wrist, what job</p> <p>12 did you have there?</p> <p>13 A. DSI.</p> <p>14 Q. And how long were you working DSI?</p> <p>15 A. About a year and a half.</p> <p>16 Q. So that would take us back into early</p> <p>17 2006?</p> <p>18 A. Yes.</p> <p>19 Q. And prior to working on DSI, what did</p> <p>20 you do?</p> <p>21 A. Pack-out.</p> <p>22 Q. And can you give me the dates when you</p> <p>23 worked pack-out?</p>  |
| <p style="text-align: right;">7</p> <p>1 A. Okay.</p> <p>2 Q. Okay?</p> <p>3 A. Okay.</p> <p>4 Q. What's your home address?</p> <p>5 A. Post Office Box 68, Clayton, Alabama.</p> <p>6 Q. And your date of birth?</p> <p>7 A. 2/1/49.</p> <p>8 Q. Are you currently employed?</p> <p>9 A. I am.</p> <p>10 Q. By whom?</p> <p>11 A. Keystone -- Equity/Keystone.</p> <p>12 Q. How long have you worked at the Baker</p> <p>13 Hill facility?</p> <p>14 A. Almost five years. January of next</p> <p>15 year will be five years.</p> <p>16 Q. So that takes us back to 2004?</p> <p>17 A. Yes.</p> <p>18 Q. So when you started there, that plant</p> <p>19 was operated by Charoen Pokphand?</p> <p>20 A. Yes.</p> <p>21 Q. What is your current job at Equity?</p> <p>22 A. You mean right now?</p> <p>23 Q. Yes, ma'am.</p>  | <p style="text-align: right;">9</p> <p>1 A. I don't remember.</p> <p>2 Q. Do you know for how long you worked in</p> <p>3 pack-out?</p> <p>4 A. It could -- I really don't remember. I</p> <p>5 really don't, you know, because they</p> <p>6 move you here, you work right here,</p> <p>7 pack-out might be work right here, it</p> <p>8 could be wings right here. It's just</p> <p>9 little departments. So I really can't</p> <p>10 say.</p> <p>11 Q. When you first started working at Baker</p> <p>12 Hill for CP, what did you do?</p> <p>13 A. I did evis, over there cutting wings.</p> <p>14 Q. How long did you do that?</p> <p>15 A. For about nine months to a year.</p> <p>16 Q. And do you recall what job you went to</p> <p>17 after you left evis?</p> <p>18 A. Pack-out.</p> <p>19 Q. So you went to pack-out?</p> <p>20 A. Yes.</p> <p>21 Q. You've never worked in the debone</p> <p>22 department?</p> <p>23 A. No.</p> |

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| <p style="text-align: right;">10</p> <p>1 Q. What shift do you currently work?</p> <p>2 A. Second shift.</p> <p>3 Q. And what are the hours?</p> <p>4 A. I'm doing from 2:30 now until 11:30 or</p> <p>5 12:30.</p> <p>6 Q. What shift did you work when you were</p> <p>7 working DSI?</p> <p>8 A. Same shift.</p> <p>9 Q. Same? What about pack-out?</p> <p>10 A. I was on day shift.</p> <p>11 Q. And what were your hours there?</p> <p>12 A. From 7:30 until 4:30.</p> <p>13 Q. Pardon?</p> <p>14 A. I think it was 7:30 to 4:30.</p> <p>15 Q. Four-thirty? And do you recall what</p> <p>16 shift you worked in evis for CP?</p> <p>17 A. What time did we go in? I can't</p> <p>18 remember. I think it was, like, from</p> <p>19 six -- it -- I can't remember back that</p> <p>20 far.</p> <p>21 Q. Okay.</p> <p>22 A. I can't remember. But it was day</p> <p>23 shift.</p>                    | <p style="text-align: right;">12</p> <p>1 A. I didn't talk to a whole lot -- I</p> <p>2 didn't talk to really anybody about it.</p> <p>3 I just heard -- you know how people get</p> <p>4 around and start talking? You know,</p> <p>5 just talk.</p> <p>6 Q. What do you recall hearing?</p> <p>7 A. Nothing too much, because when I --</p> <p>8 when people start talking, if it don't</p> <p>9 concern me, I just keep walking. I</p> <p>10 just hear them talking.</p> <p>11 Q. What's your understanding of what the</p> <p>12 case is about?</p> <p>13 A. About paying us wages, back wages.</p> <p>14 Q. You believe you have a claim for back</p> <p>15 wages?</p> <p>16 A. I do.</p> <p>17 Q. And what is the basis of your claim for</p> <p>18 back wages?</p> <p>19 A. Don't understand what you're talking</p> <p>20 about.</p> <p>21 Q. Why do you feel you have a claim?</p> <p>22 A. Why do I feel that I have a -- I,</p> <p>23 myself?</p> |
| <p style="text-align: right;">11</p> <p>1 Q. Have we exhausted all the jobs that you</p> <p>2 performed at the plant --</p> <p>3 A. Sure.</p> <p>4 Q. -- to your memory?</p> <p>5 A. (Witness nods head.)</p> <p>6 Q. Okay.</p> <p>7 A. Yes.</p> <p>8 Q. Now, you are a plaintiff. You have a</p> <p>9 claim in this lawsuit; is that --</p> <p>10 A. I do.</p> <p>11 Q. -- correct? And how did you first</p> <p>12 learn about the case?</p> <p>13 A. The television and people talking about</p> <p>14 it.</p> <p>15 Q. And what did you learn from the</p> <p>16 television?</p> <p>17 A. That they was asking people that -- who</p> <p>18 had worked at the poultry plant to get</p> <p>19 in touch with the Cochran firm.</p> <p>20 Q. That what?</p> <p>21 A. To get in touch with the Cochran firm.</p> <p>22 Q. And what did you learn from talking</p> <p>23 with people about this case?</p> | <p style="text-align: right;">13</p> <p>1 Q. Just you.</p> <p>2 A. Because I don't feel that they was</p> <p>3 paying us from the time that we was</p> <p>4 being undressed, putting our aprons and</p> <p>5 things back on and getting back in on</p> <p>6 time, and the lunch breaks and all</p> <p>7 that, you know, that was taken from us.</p> <p>8 Q. Now, you've worked supply for almost</p> <p>9 the last year; correct?</p> <p>10 A. Yes.</p> <p>11 Q. And what are you required to wear as an</p> <p>12 employee in the supply room?</p> <p>13 A. My clothes.</p> <p>14 Q. You're required to wear a smock?</p> <p>15 A. No.</p> <p>16 Q. You required to wear anything?</p> <p>17 A. Just my clothes.</p> <p>18 Q. Just your clothes?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any claim for any unpaid</p> <p>21 wages for the time you worked in</p> <p>22 supply?</p> <p>23 A. No, because I haven't been on the floor</p>                  |

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| <p style="text-align: right;">14</p> <p>1 working supply.</p> <p>2 Q. Are you a member of the union?</p> <p>3 A. I am now.</p> <p>4 Q. And that's the retail, wholesale, and</p> <p>5 department store union?</p> <p>6 A. I don't know.</p> <p>7 Q. You don't know?</p> <p>8 A. No.</p> <p>9 Q. When did you join?</p> <p>10 A. A week ago.</p> <p>11 Q. So as a new member, you didn't go to</p> <p>12 any --</p> <p>13 A. Meetings?</p> <p>14 Q. -- union -- you haven't been to any</p> <p>15 union meetings?</p> <p>16 A. No, I have not.</p> <p>17 Q. Have you talked to any of the union</p> <p>18 reps concerning this lawsuit?</p> <p>19 A. No.</p> <p>20 Q. Did you review any papers to prepare</p> <p>21 for this deposition?</p> <p>22 A. No.</p> <p>23 Q. Besides your lawyers, did you talk with</p>   | <p style="text-align: right;">16</p> <p>1 Q. Which of those items, to your</p> <p>2 understanding, were you required to</p> <p>3 wear?</p> <p>4 A. All of them.</p> <p>5 Q. Did you wear gloves?</p> <p>6 A. Yes.</p> <p>7 Q. What kind of gloves?</p> <p>8 A. We wore two pair. We wore the cotton</p> <p>9 liners and the blue gloves.</p> <p>10 Q. You did not work with a knife or</p> <p>11 scissors when you worked in DSI?</p> <p>12 A. No.</p> <p>13 Q. How many people worked with you in DSI?</p> <p>14 A. There's quite a few back there.</p> <p>15 Maybe -- back then, maybe one, two,</p> <p>16 three lines. Can't say, because it</p> <p>17 was, like, three lines, you know.</p> <p>18 Q. Okay. Did everybody that worked in DSI</p> <p>19 wear these same items of equipment?</p> <p>20 A. Everybody.</p> <p>21 Q. Which of these items that you've</p> <p>22 identified for me were issued to you by</p> <p>23 the company?</p> |
| <p style="text-align: right;">15</p> <p>1 anybody about it?</p> <p>2 A. No.</p> <p>3 Q. When you worked in DSI, tell me what</p> <p>4 you wore every day on the job.</p> <p>5 A. When I got ready to get in the plant?</p> <p>6 Q. What you --</p> <p>7 A. My clothes?</p> <p>8 Q. What you had to wear.</p> <p>9 A. Okay. I have on my clothes. I put on</p> <p>10 my -- my smock, the white smock, a blue</p> <p>11 apron, hair net, earplugs, arm sleeves.</p> <p>12 We didn't use knives and scissors back</p> <p>13 there. Only way we use knives and</p> <p>14 scissors, if we worked somewhere else.</p> <p>15 We didn't use those back there.</p> <p>16 Q. So you wore a smock, an apron, a hair</p> <p>17 net, earplugs, and arm sleeves?</p> <p>18 A. Yes.</p> <p>19 Q. Those are the plastic arm sleeves?</p> <p>20 A. Yes.</p> <p>21 Q. Were you required to wear any type of</p> <p>22 shoes or boots?</p> <p>23 A. Boots. Yes, have to wear boots.</p> | <p style="text-align: right;">17</p> <p>1 A. All of them.</p> <p>2 Q. All of them?</p> <p>3 A. That you -- on that paper.</p> <p>4 Q. Pardon?</p> <p>5 A. All of those that I just named out.</p> <p>6 Q. Which of those items did you get on or</p> <p>7 pick up on a daily basis?</p> <p>8 A. We have to change our -- on a daily</p> <p>9 basis? Our hair nets, the blue gloves,</p> <p>10 and that was it.</p> <p>11 Q. What about smocks?</p> <p>12 A. Oh, the white smocks, we have to change</p> <p>13 them every day.</p> <p>14 Q. So you're permitted -- you were</p> <p>15 permitted when you worked in DSI to</p> <p>16 wear your footwear and your hair net</p> <p>17 and your earplugs from home?</p> <p>18 A. No.</p> <p>19 Q. Were you permitted to wear anything</p> <p>20 from home?</p> <p>21 A. No.</p> <p>22 Q. Not even your boots?</p> <p>23 A. Oh, we could wear our boots.</p>   |

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| <p style="text-align: right;">18</p> <p>1 Q. Were you permitted to wear boots of<br/>2 your choice?<br/>3 A. No. We had to wear the boots through<br/>4 the company.<br/>5 Q. These items that you picked up every<br/>6 day -- the smock, the gloves, and the<br/>7 hair net -- you picked those up at the<br/>8 supply room?<br/>9 A. Yes.<br/>10 Q. At the start of your shift?<br/>11 A. Yes.<br/>12 Q. And did you go there first thing after<br/>13 you came to the plant?<br/>14 A. To go pick up our supply?<br/>15 Q. Yes, ma'am.<br/>16 A. Yes.<br/>17 Q. And how long did it take you to pick up<br/>18 your stuff?<br/>19 A. It's according to how long the line is.<br/>20 You know, if we all get there, it takes<br/>21 us -- if the line's short, you just go<br/>22 get them and go. But it's just<br/>23 according to how long the line is. You</p> | <p style="text-align: right;">20</p> <p>1 Q. Well, how long does it take the line to<br/>2 go through?<br/>3 MR. UNDERWOOD: If you know.<br/>4 Q. If you know.<br/>5 THE WITNESS: I can't hear you.<br/>6 MR. UNDERWOOD: I said if you<br/>7 know. I mean, don't be guessing.<br/>8 A. That's what I'm saying, I don't know.<br/>9 Q. What about Tuesday through Friday?<br/>10 (No immediate response given.)<br/>11 Q. If you don't know, you don't know.<br/>12 That's --<br/>13 A. I don't know.<br/>14 Q. Okay. Now, going back to when you<br/>15 worked in DSI for the year and a half,<br/>16 from '06 to '07. Where did you put on<br/>17 these items that you just identified<br/>18 for me that you had to wear?<br/>19 A. We have to go -- when we go through the<br/>20 double door into the -- out there where<br/>21 the meats are.<br/>22 Q. Into the production area?<br/>23 A. Yes.</p>                              |
| <p style="text-align: right;">19</p> <p>1 never know.<br/>2 Q. Never know?<br/>3 A. No.<br/>4 Q. It's different from day to day?<br/>5 A. It is.<br/>6 Q. And now that you work in supply, you<br/>7 get to see the line -- how the line<br/>8 develops every day; correct?<br/>9 A. I do.<br/>10 Q. And is that the basis for your<br/>11 testimony that it varies from day to<br/>12 day; sometimes there's lines and<br/>13 sometimes there's not?<br/>14 A. Monday is the worst day of all.<br/>15 Everybody mostly on Monday.<br/>16 Q. What about Tuesday through Friday?<br/>17 A. Well, it's -- it's not as long as it is<br/>18 on Monday.<br/>19 Q. And how long as -- from working in<br/>20 supply, how long does it take you on<br/>21 Mondays to get everybody --<br/>22 A. I'm not -- I'm not the only one in<br/>23 there.</p>                        | <p style="text-align: right;">21</p> <p>1 Q. So you had to put on your smock in the<br/>2 production area?<br/>3 A. Yes. We're supposed to dress there.<br/>4 Q. You didn't have to put your boots on<br/>5 there; right?<br/>6 A. We had our boots on.<br/>7 Q. Right. What about your hair net?<br/>8 A. We're putting it on, too.<br/>9 Q. That was already on?<br/>10 A. We have them on, too.<br/>11 Q. And your earplugs?<br/>12 A. We put them on when we get through the<br/>13 double door.<br/>14 Q. You put everything on except your boots<br/>15 when you get through the double --<br/>16 A. The boots are already on your foot.<br/>17 Q. You have to listen to my question. Is<br/>18 it your testimony that with the<br/>19 exception of your boots, when you<br/>20 worked in DSI, you put everything on<br/>21 when you went onto the production<br/>22 floor?<br/>23 A. Yes. We had to put it on when we go on</p> |



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| <p style="text-align: right;">22</p> <p>1 the floor.</p> <p>2 Q. And is it true that you weren't allowed</p> <p>3 to wear your apron and the smock and</p> <p>4 the arm sleeves outside of the</p> <p>5 production floor?</p> <p>6 A. It's true.</p> <p>7 Q. When you entered the production floor,</p> <p>8 tell me what you did by way of putting</p> <p>9 these various items on.</p> <p>10 A. Excuse me? I don't understand what you</p> <p>11 mean.</p> <p>12 MR. UNDERWOOD: Object to form.</p> <p>13 What she did besides put the items on?</p> <p>14 MR. FRY: Good point. Let me</p> <p>15 rephrase it.</p> <p>16 Q. (By Mr. Fry) Describe for me how you</p> <p>17 would put on these items of PPE, or</p> <p>18 clothing, once you entered the double</p> <p>19 doors.</p> <p>20 A. So you said when I get on the floor how</p> <p>21 do I dress?</p> <p>22 Q. Yes.</p> <p>23 A. I put my smock on; then we put the blue</p>                              | <p style="text-align: right;">24</p> <p>1 Q. While you're making that walk, are you</p> <p>2 able to put things on?</p> <p>3 A. When we get there -- we are supposed to</p> <p>4 be dressed when we get on the line.</p> <p>5 Q. Listen to my question. Just answer my</p> <p>6 question.</p> <p>7 A. Okay.</p> <p>8 Q. When you're walking from the double</p> <p>9 door to the DSI area, while you're</p> <p>10 walking, are you able to put on any of</p> <p>11 these items?</p> <p>12 A. By walking? That's what you're asking?</p> <p>13 Q. While you're walking.</p> <p>14 A. I don't know.</p> <p>15 Q. Do you do it?</p> <p>16 A. When I get there, I try to be almost</p> <p>17 dressed when I get almost to the line.</p> <p>18 Q. And my question is, while you're</p> <p>19 getting there, while you're walking</p> <p>20 through the production area, are you</p> <p>21 putting on your smock? Are you putting</p> <p>22 on your apron?</p> <p>23 A. Yes, I have did it before.</p> |
| <p style="text-align: right;">23</p> <p>1 apron on; then we put the white liners</p> <p>2 on, cotton liners; then we put the blue</p> <p>3 gloves on; then we have to put the</p> <p>4 sleeves on top of that.</p> <p>5 Q. And do you put --</p> <p>6 A. And your earplugs and your hair net.</p> <p>7 Excuse me.</p> <p>8 Q. Sorry to interrupt. I don't want to</p> <p>9 interrupt. Do you do any of this</p> <p>10 putting-on while you're walking?</p> <p>11 A. To our jobs?</p> <p>12 Q. Yes, ma'am.</p> <p>13 A. We are supposed to be fully dressed</p> <p>14 when we get to our job.</p> <p>15 Q. And how far do you have to walk from</p> <p>16 the entry to the production floor to</p> <p>17 the DSI area?</p> <p>18 A. I don't know how far it is. I never</p> <p>19 measured walking.</p> <p>20 Q. Is it a minute walk, a thirty-second</p> <p>21 walk?</p> <p>22 A. I really don't know. I never have</p> <p>23 thought about that. I don't know.</p> | <p style="text-align: right;">25</p> <p>1 Q. While you're walking?</p> <p>2 A. Yes.</p> <p>3 Q. And do other people do it as well?</p> <p>4 A. I don't be watching other people. I</p> <p>5 just be trying to get there myself,</p> <p>6 sir.</p> <p>7 Q. That's fair enough. You told me that</p> <p>8 by the time you arrived at the DSI</p> <p>9 workstation, you had to be fully</p> <p>10 dressed. And during the year and a</p> <p>11 half that you worked at DSI, do you</p> <p>12 recall what time you had to be there</p> <p>13 for the second shift?</p> <p>14 MR. UNDERWOOD: In the plant or</p> <p>15 on --</p> <p>16 MR. FRY: In the plant at her</p> <p>17 workstation.</p> <p>18 MR. UNDERWOOD: Okay. On the</p> <p>19 line?</p> <p>20 MR. FRY: On the line.</p> <p>21 MR. UNDERWOOD: Okay.</p> <p>22 A. We had to be there on the line by 4:25,</p> <p>23 before 4:30, give the other shift time</p>   |

## MERRILL LEGAL SOLUTIONS

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| <p style="text-align: right;">26</p> <p>1 to change. We got to be ready to get</p> <p>2 on the line.</p> <p>3 Q. How many minutes before 4:25 would you</p> <p>4 go through those double doors?</p> <p>5 A. We try to get in there about 4:20 so we</p> <p>6 can be ready. Let me speak for myself.</p> <p>7 I try to be in there. That's the way</p> <p>8 to do it.</p> <p>9 Q. That's all I want.</p> <p>10 A. Okay.</p> <p>11 Q. If I want your observations on other</p> <p>12 people, if you have any, I'll try and</p> <p>13 ask them that way.</p> <p>14 A. Speak for myself.</p> <p>15 Q. But I want just what you can recollect.</p> <p>16 A. Okay.</p> <p>17 Q. We're still on DSI. How many breaks</p> <p>18 did you get during that shift?</p> <p>19 A. Two.</p> <p>20 Q. And how long were the breaks?</p> <p>21 A. They're supposed to be thirty minutes.</p> <p>22 Q. When you say that they were supposed to</p> <p>23 be, you're saying they weren't?</p> | <p style="text-align: right;">28</p> <p>1 Q. You have your choice?</p> <p>2 A. Yes.</p> <p>3 Q. And do you know the time of the breaks?</p> <p>4 A. Seven-twenty to ten minutes to eight.</p> <p>5 Q. And how do you know it's time for you</p> <p>6 to go on your break?</p> <p>7 A. Because we look at the clock. They let</p> <p>8 us know it's time to go.</p> <p>9 Q. So the timing of your break doesn't</p> <p>10 depend on the status of the product?</p> <p>11 A. We have to -- they let us know -- like,</p> <p>12 the meat is falling. They'll stop the</p> <p>13 meat from running. The line is clear.</p> <p>14 Everything have to be off the line</p> <p>15 before we can leave, everything. No</p> <p>16 meat.</p> <p>17 Q. And when you did DSI, what did you</p> <p>18 actually do?</p> <p>19 A. Different jobs.</p> <p>20 Q. And what was the purpose of the DSI</p> <p>21 operation? What did you do to the</p> <p>22 meat?</p> <p>23 A. They would enter the combo and it would</p> |
| <p style="text-align: right;">27</p> <p>1 A. To me, it wasn't.</p> <p>2 Q. And why do you say that?</p> <p>3 A. Because we have to pull off our</p> <p>4 equipment. Okay. That takes time to</p> <p>5 pull off and hang it up on the thing</p> <p>6 because we're back there putting them</p> <p>7 on the rack and stuff. Then by the</p> <p>8 time we walk back there in DSI and get</p> <p>9 to the break room, part of the time is</p> <p>10 gone.</p> <p>11 Q. How long do you estimate it took you</p> <p>12 to put on this equipment when you</p> <p>13 entered -- from the time you entered</p> <p>14 the double doors, if you know?</p> <p>15 A. I don't know.</p> <p>16 Q. You never timed it?</p> <p>17 A. I don't time it. I know -- I don't</p> <p>18 time it.</p> <p>19 Q. Where do you take your break?</p> <p>20 A. In the break area.</p> <p>21 Q. The --</p> <p>22 A. Debone or either break room. There's</p> <p>23 two other break rooms.</p>           | <p style="text-align: right;">29</p> <p>1 come down on the belt and they have to</p> <p>2 straighten it out. My job? That's</p> <p>3 what I'm saying. I had different jobs.</p> <p>4 Q. Okay.</p> <p>5 A. I just can't say -- I did different</p> <p>6 things. And at the end of the line of</p> <p>7 the combo, I can't move until all the</p> <p>8 meat fall into the combo.</p> <p>9 Q. So you go on break based on the clock?</p> <p>10 A. Yes.</p> <p>11 Q. And does everybody start the break at</p> <p>12 the same time?</p> <p>13 A. Mostly, yes.</p> <p>14 Q. And I'm talking about when you were in</p> <p>15 DSI.</p> <p>16 A. Yes.</p> <p>17 Q. And then you go to one of the break</p> <p>18 rooms, the break room of your choice;</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And how do you know when it's time to</p> <p>22 come back?</p> <p>23 A. Because we're looking at the clock.</p>   |

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| <p style="text-align: right;">30</p> <p>1 Q. And everybody comes back at the same</p> <p>2 time?</p> <p>3 A. Yes.</p> <p>4 Q. How long did you work on pack-out?</p> <p>5 A. I don't remember.</p> <p>6 Q. What sort of clothing, if any, did you</p> <p>7 have to wear in pack-out?</p> <p>8 A. Same.</p> <p>9 Q. You had to wear a smock?</p> <p>10 A. Yes. Smock, apron, gloves -- both</p> <p>11 gloves, the cotton liners and blue</p> <p>12 gloves, and your sleeves, boots.</p> <p>13 Q. What did you do in pack-out?</p> <p>14 A. Pack meat in boxes.</p> <p>15 Q. And it was your understanding that all</p> <p>16 those items were required when you</p> <p>17 worked in pack-out?</p> <p>18 A. Yes.</p> <p>19 Q. And did the same routine of picking up</p> <p>20 the certain items daily apply when you</p> <p>21 worked pack-out, you picked up the same</p> <p>22 things -- the smock, the gloves, and</p> <p>23 the hair net -- daily?</p> | <p style="text-align: right;">32</p> <p>1 in pack-out?</p> <p>2 A. Same way, the clock.</p> <p>3 Q. Now, when you worked for CP and evis,</p> <p>4 what items of clothing did you wear?</p> <p>5 A. We got a smock, we got the apron, we</p> <p>6 got the sleeve, gloves, cotton liners.</p> <p>7 I had to have a sleeve -- I mean an arm</p> <p>8 guard. I used scissors and knives at</p> <p>9 that time.</p> <p>10 Q. And you got all those things from the</p> <p>11 company?</p> <p>12 A. That's with the company, yes.</p> <p>13 Q. And you worked with a knife and</p> <p>14 scissors?</p> <p>15 A. I did.</p> <p>16 Q. And you got those while you were on the</p> <p>17 line?</p> <p>18 A. They gave them to us. They would issue</p> <p>19 them to us.</p> <p>20 Q. You didn't have to go get them?</p> <p>21 A. No. They would issue them to us.</p> <p>22 Q. And when you were working in evis for</p> <p>23 CP -- strike that and let me ask you</p> |
| <p style="text-align: right;">31</p> <p>1 A. If you didn't need -- the smock, yes,</p> <p>2 we picked up daily; the hair net, yes.</p> <p>3 Q. And as a pack-out worker, did you have</p> <p>4 to show up at the same time as the</p> <p>5 production people did to work?</p> <p>6 A. Yes.</p> <p>7 Q. And did the same situation exist then</p> <p>8 with respect to the lines at the</p> <p>9 supply?</p> <p>10 A. Excuse me?</p> <p>11 Q. When you were working pack-out, did the</p> <p>12 same situation apply with respect to</p> <p>13 lines when they picked up items of</p> <p>14 equipment at the supply desk -- some</p> <p>15 days it was a long line, some days it</p> <p>16 wasn't?</p> <p>17 A. Yes.</p> <p>18 Q. Did you get two breaks when you worked</p> <p>19 in pack-out?</p> <p>20 A. Yes.</p> <p>21 Q. Same as you did in DSI?</p> <p>22 A. Yes.</p> <p>23 Q. And how did you know to take your break</p>                          | <p style="text-align: right;">33</p> <p>1 this. Did you get a smock daily when</p> <p>2 you worked for CP?</p> <p>3 A. Yes.</p> <p>4 Q. And you had to turn it in daily?</p> <p>5 A. Yes.</p> <p>6 Q. And did you put on all these items on</p> <p>7 the production floor the same as you</p> <p>8 did at DSI?</p> <p>9 A. Yes.</p> <p>10 Q. And was it also true that you weren't</p> <p>11 permitted to wear your smock and your</p> <p>12 apron and those kinds of things outside</p> <p>13 the production floor?</p> <p>14 A. True.</p> <p>15 Q. I want you to describe for me now what</p> <p>16 you do or what you have done over the</p> <p>17 years when you were working in DSI,</p> <p>18 pack-out, and evis from the time you</p> <p>19 drove onto the property until you got</p> <p>20 to your workstation.</p> <p>21 A. Excuse me?</p> <p>22 Q. Can you take me through what you did</p> <p>23 each day when you arrived at work?</p>                |



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| <p style="text-align: right;">34</p> <p>1 A. I don't understand what you're saying.<br/> 2 When I leave from home?<br/> 3 Q. Yes.<br/> 4 A. And come to work?<br/> 5 Q. Yes.<br/> 6 A. What do I do?<br/> 7 Q. What do you do from the time you drive<br/> 8 on until you walk onto that<br/> 9 workstation?<br/> 10 THE WITNESS: What is he<br/> 11 saying? I don't understand.<br/> 12 Q. Let's do it this way. We'll do it this<br/> 13 way. You drive into the plant.<br/> 14 A. Okay.<br/> 15 Q. You have a sticker for your car?<br/> 16 A. I do, yes.<br/> 17 Q. And the guard shack, the guy in the<br/> 18 guard shack, just waves you in?<br/> 19 A. Yes.<br/> 20 Q. You're not searched?<br/> 21 A. No.<br/> 22 Q. None of your possessions are searched?<br/> 23 A. No.</p>  | <p style="text-align: right;">36</p> <p>1 the break room?<br/> 2 A. Well, if I get there at, what, 4:15,<br/> 3 you don't have but just five minutes to<br/> 4 go get your smock and stuff and it's<br/> 5 time to get on the line, go through the<br/> 6 double doors.<br/> 7 Q. When, generally, do you try to arrive<br/> 8 at the plant -- how many minutes before<br/> 9 your shift starts?<br/> 10 A. About thirty minutes. That's what<br/> 11 you're asking, about what time do I<br/> 12 arrive at the plant, period?<br/> 13 Q. Yeah.<br/> 14 A. About thirty minutes earlier.<br/> 15 Q. Okay. Are people -- from what you've<br/> 16 been able to observe, do people arrive<br/> 17 after you're there?<br/> 18 A. Yes.<br/> 19 Q. And from what you have observed, have<br/> 20 people arrived before you got there?<br/> 21 A. I guess. I mean . . .<br/> 22 Q. People that you work with.<br/> 23 A. I'm the type of person -- I'm speaking</p> |
| <p style="text-align: right;">35</p> <p>1 Q. You park your car?<br/> 2 A. Yes.<br/> 3 Q. You go from your car to the supply?<br/> 4 A. Yes.<br/> 5 Q. First thing?<br/> 6 A. Well, no. If you got to go to the<br/> 7 ladies' room and everything, you go do<br/> 8 that.<br/> 9 Q. Okay. But if you don't have to do<br/> 10 anything like that for your personal --<br/> 11 anything personal, do you generally go<br/> 12 to the supply desk?<br/> 13 A. Go get my supplies.<br/> 14 Q. Okay. And then where do you go?<br/> 15 A. Go sit until it's time to go to work.<br/> 16 Q. Pardon?<br/> 17 A. Go sit in the break area until time to<br/> 18 get ready to go to work.<br/> 19 Q. So you go from the supply desk to the<br/> 20 break room and you wait until it's time<br/> 21 to go to work?<br/> 22 A. Yes.<br/> 23 Q. And how long do you typically wait in</p> | <p style="text-align: right;">37</p> <p>1 for me -- when I go there, I do what I<br/> 2 got to do and I mind my business.<br/> 3 That's me. That's just the way I've<br/> 4 been.<br/> 5 Q. When you go to the break room to wait<br/> 6 until it's time to go in the production<br/> 7 floor, are there other people in there?<br/> 8 A. Yes.<br/> 9 Q. What are they doing?<br/> 10 (No immediate response given.)<br/> 11 Q. Are they talking?<br/> 12 A. Yes, I guess they are.<br/> 13 Q. Well, you see them, don't you?<br/> 14 A. I mostly have my books and stuff,<br/> 15 reading them.<br/> 16 Q. So you --<br/> 17 A. Until it's time for me to go to work.<br/> 18 Q. Some people read?<br/> 19 A. No. I said me.<br/> 20 Q. Okay. You read?<br/> 21 A. Yes.<br/> 22 Q. Do you use the vending machine?<br/> 23 A. No. I mostly have my own snacks and</p>   |

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| <p style="text-align: right;">38</p> <p>1 stuff.</p> <p>2 Q. Sometimes you eat a snack while you're</p> <p>3 waiting?</p> <p>4 A. Maybe get a pop.</p> <p>5 Q. Okay. Now, at some point, you swipe in</p> <p>6 a Kronos card?</p> <p>7 A. Timecard?</p> <p>8 Q. Yes.</p> <p>9 A. Yeah.</p> <p>10 Q. When do you do that?</p> <p>11 A. About 4:10, 4:15.</p> <p>12 Q. And where do you swipe? Where is</p> <p>13 the --</p> <p>14 A. Right there where you go in the double</p> <p>15 door. It's on the wall.</p> <p>16 Q. So you swipe right before you go onto</p> <p>17 the production floor?</p> <p>18 A. No. It's in the break area.</p> <p>19 Q. It's in the break area?</p> <p>20 A. Yes.</p> <p>21 Q. When do you generally swipe in? Is it</p> <p>22 before you pick up your equipment or</p> <p>23 after?</p>  | <p style="text-align: right;">40</p> <p>1 minutes you recollect was the time you</p> <p>2 entered the double doors when you were</p> <p>3 working in DSI?</p> <p>4 A. Yes. DSI because you have to get time</p> <p>5 to get in there and get dressed.</p> <p>6 Q. Do you have to -- when you're working</p> <p>7 for DSI, did you have to wash anything</p> <p>8 before you started --</p> <p>9 A. You wash your hands. We're supposed to</p> <p>10 wash our hands and take the water and</p> <p>11 rinse down our aprons.</p> <p>12 Q. And where do you do that?</p> <p>13 A. At the wash station.</p> <p>14 Q. Anything else?</p> <p>15 A. No.</p> <p>16 Q. How long does that take?</p> <p>17 A. It's according how many people is</p> <p>18 there, everybody trying to do it, get</p> <p>19 ready.</p> <p>20 Q. Can you estimate for me how long it</p> <p>21 takes for you to walk from your break</p> <p>22 area to the DSI station when you worked</p> <p>23 in DSI?</p> |
| <p style="text-align: right;">39</p> <p>1 A. After.</p> <p>2 Q. So continuing on, you're in the break</p> <p>3 room; you have your smock and all the</p> <p>4 other things you need to put on. Do</p> <p>5 you have your hair net on?</p> <p>6 A. (Witness shakes head.)</p> <p>7 Q. You don't have anything on except your</p> <p>8 boots?</p> <p>9 A. You can put hair net on, but I don't</p> <p>10 put mine on right then until I get</p> <p>11 ready to go out, ready to go inside.</p> <p>12 Okay?</p> <p>13 Q. And approximately how many minutes</p> <p>14 before the start of work do you go in</p> <p>15 those double doors?</p> <p>16 A. Five minutes. We have to be, you</p> <p>17 know . . .</p> <p>18 Q. And did you usually go in five minutes</p> <p>19 for each of the jobs we're talking</p> <p>20 about -- the DSI, the pack-out, and the</p> <p>21 evis?</p> <p>22 A. I can't remember all those times.</p> <p>23 Q. Okay. That's fair enough. The five</p> | <p style="text-align: right;">41</p> <p>1 A. No, I can't estimate that.</p> <p>2 Q. When you worked in DSI, did you</p> <p>3 generally, in the beginning of the work</p> <p>4 day, go to the debone break room?</p> <p>5 A. Go to it?</p> <p>6 Q. Yeah.</p> <p>7 A. Debone break room?</p> <p>8 Q. Yes, ma'am.</p> <p>9 A. That's where we break at, debone break</p> <p>10 room.</p> <p>11 Q. Did you tell me that you had an option</p> <p>12 of break rooms?</p> <p>13 A. Yes.</p> <p>14 Q. Did you --</p> <p>15 A. Evis or debone.</p> <p>16 Q. And the debone break room is right</p> <p>17 across the hall from the --</p> <p>18 A. Coming out the double doors where I</p> <p>19 work at, yes.</p> <p>20 Q. Were lockers made available to you?</p> <p>21 A. When I first started, yes.</p> <p>22 Q. And what did you use the lockers for?</p> <p>23 A. Your purse or whatever -- your personal</p>  |

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| <p style="text-align: right;">42</p> <p>1 belongings.</p> <p>2 Q. Tell me now what you had to do in terms</p> <p>3 of taking things off to get from your</p> <p>4 DSI workstation to the break room.</p> <p>5 A. What did I have to take off before I</p> <p>6 get to the break room?</p> <p>7 Q. Yes, ma'am.</p> <p>8 A. I had to take my apron, my sleeves, my</p> <p>9 smock.</p> <p>10 Q. And did you do this while you were</p> <p>11 walking to the --</p> <p>12 A. No. I took it off back at --</p> <p>13 Q. Where did you take it off?</p> <p>14 A. And hang it up inside the -- the -- out</p> <p>15 where we work at.</p> <p>16 Q. On the hangers?</p> <p>17 A. On racks.</p> <p>18 Q. So how did you do it? Did you walk</p> <p>19 fully clothed over to the hangers and</p> <p>20 stop there and take it off?</p> <p>21 A. Yes, because we can't walk from the</p> <p>22 machines taking it off because we'll</p> <p>23 contaminate it. We have to wait till</p>  | <p style="text-align: right;">44</p> <p>1 A. Yes.</p> <p>2 Q. Now, when you were working in pack-out,</p> <p>3 you didn't have to do that when you</p> <p>4 left for break, did you?</p> <p>5 A. Yes. We had to wash them off. You</p> <p>6 have to wash them off anyway because</p> <p>7 that meat be coming on the aprons and</p> <p>8 stuff.</p> <p>9 Q. And where did the -- how did you get</p> <p>10 meat on your aprons when you were</p> <p>11 working in pack-out?</p> <p>12 A. Because the little pieces of meat</p> <p>13 coming off the belt and stuff, when you</p> <p>14 put that meat into boxes and stuff, it</p> <p>15 gets on your apron and stuff.</p> <p>16 Q. And you followed the same procedure</p> <p>17 when you left the line when you were</p> <p>18 working in evis for CP?</p> <p>19 A. Yes.</p> <p>20 Q. Have you ever timed how much time you</p> <p>21 actually had for break, how much free</p> <p>22 time you had in the break room?</p> <p>23 A. How much free time I had in the break</p> |
| <p style="text-align: right;">43</p> <p>1 we get to the racks.</p> <p>2 Q. You have to wash it off first? You</p> <p>3 have to walk over to the wash stations</p> <p>4 and then you can take it off?</p> <p>5 A. Yes.</p> <p>6 Q. Then you can go to the break room?</p> <p>7 A. Yes.</p> <p>8 Q. How long did that process take you?</p> <p>9 A. I don't know. Can't answer that.</p> <p>10 Q. Was everybody required to wash off</p> <p>11 before they left for a break?</p> <p>12 A. I have to just speak for me.</p> <p>13 Q. Okay. You don't know?</p> <p>14 A. I'm trying to explain. I have to just</p> <p>15 speak for me, sir. I always wash off</p> <p>16 because I be full of meat. Understand</p> <p>17 what I'm saying? If you work up there</p> <p>18 on the top, all the little pieces of</p> <p>19 meat come down on you, so I have wash</p> <p>20 from my -- you know, wash my apron off.</p> <p>21 Q. But it was your understanding that</p> <p>22 you -- if you had meat on you, you had</p> <p>23 to wash it off?</p> | <p style="text-align: right;">45</p> <p>1 room?</p> <p>2 Q. Yeah.</p> <p>3 A. Of my free time?</p> <p>4 Q. Yeah.</p> <p>5 MR. UNDERWOOD: Excuse me.</p> <p>6 Object to the form. By "free time," do</p> <p>7 you mean after she's donned her --</p> <p>8 taken off all her stuff and went in</p> <p>9 there and before she puts back on her</p> <p>10 PPE? Is that what you consider free</p> <p>11 time?</p> <p>12 MR. FRY: Yeah.</p> <p>13 Q. I think you testified that you were</p> <p>14 supposed to get a thirty-minute break</p> <p>15 period but sometimes you didn't. Have</p> <p>16 you ever timed exactly how much time</p> <p>17 you had in the break room that you</p> <p>18 considered break time?</p> <p>19 THE WITNESS: I don't</p> <p>20 understand what he's talking about,</p> <p>21 sir.</p> <p>22 MR. UNDERWOOD: He's asking --</p> <p>23 you said you had to take off your PPE,</p>   |

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| <p style="text-align: right;">46</p> <p>1 go to break, then put your PPE back on.</p> <p>2 Have you ever timed that amount of time</p> <p>3 that you had between the time you took</p> <p>4 it off and the time you put it back on?</p> <p>5 THE WITNESS: Well, he asked me</p> <p>6 the time -- about the thirty minutes.</p> <p>7 MR. UNDERWOOD: Yeah. How much</p> <p>8 of that time -- have you ever timed how</p> <p>9 much of that time you had left between</p> <p>10 the time you take your thing off, go to</p> <p>11 break, and then you have to go back and</p> <p>12 put it on? Have you ever timed how</p> <p>13 much time you actually have?</p> <p>14 A. I have. I have looked at the clock.</p> <p>15 Q. And how much time is it?</p> <p>16 A. I think it's, what, about eight, ten</p> <p>17 minutes sometimes.</p> <p>18 Q. Only eight or ten minutes?</p> <p>19 A. Yeah, because that's -- that's half --</p> <p>20 that's some of your break anyway, you</p> <p>21 know? Okay. Just say thirty minutes</p> <p>22 right now. I've got to get -- I'm</p> <p>23 speaking for myself. Thirty minutes I</p> | <p style="text-align: right;">48</p> <p>1 A. That's what you're saying? I say</p> <p>2 twenty minutes in there, you know,</p> <p>3 twenty, twenty-five minutes, something</p> <p>4 like that, because once you get in and</p> <p>5 out, getting that stuff on -- me,</p> <p>6 that's what I'm saying. Okay? -- it</p> <p>7 might be more, it might be less. Okay?</p> <p>8 I don't actually sit down and time it,</p> <p>9 because you don't have time to look at</p> <p>10 the clock.</p> <p>11 Q. So it varies for you?</p> <p>12 A. Everybody is different. I can only say</p> <p>13 for me. I'm the type of person I just</p> <p>14 try to go and do what I got to do. I</p> <p>15 can't speak for everybody because we're</p> <p>16 all there in a huddle --</p> <p>17 Q. Okay.</p> <p>18 A. -- you know, and say there's fifteen</p> <p>19 people right here at the door trying to</p> <p>20 get out. We're all in a huddle.</p> <p>21 That's all I can say. Maybe I'm not --</p> <p>22 MR. UNDERWOOD: Don't keep</p> <p>23 rambling on. You finished answering</p> |
| <p style="text-align: right;">47</p> <p>1 got to get up and go to break. Okay?</p> <p>2 I got to take all this off. That's</p> <p>3 taking time right there, our break,</p> <p>4 right there. Okay. Then by the time I</p> <p>5 take it off and walk from there to the</p> <p>6 break area -- and everybody's trying to</p> <p>7 get lunch, that's our time. We're</p> <p>8 trying to get in and out. Then back in</p> <p>9 there, putting it back on. You</p> <p>10 understand what I'm saying? So I --</p> <p>11 what, it's ten minutes of our break</p> <p>12 gone.</p> <p>13 Q. So your testimony is you only get ten</p> <p>14 minutes out of that thirty?</p> <p>15 A. No.</p> <p>16 Q. What is your testimony? How much time</p> <p>17 do you have in the break room?</p> <p>18 A. I don't know because -- Jesus have</p> <p>19 mercy. I'm getting confused of what</p> <p>20 you're saying, because you're asking me</p> <p>21 about how much time do I have in the</p> <p>22 break room actually?</p> <p>23 Q. Yeah.</p>  | <p style="text-align: right;">49</p> <p>1 his question. That's all right.</p> <p>2 MR. FRY: Well, she's finished</p> <p>3 when she thinks she's finished.</p> <p>4 THE WITNESS: I can't hear what</p> <p>5 he's saying because --</p> <p>6 MR. UNDERWOOD: Okay. If you</p> <p>7 can't hear him, say you can't hear him.</p> <p>8 THE WITNESS: Okay. I'm sorry.</p> <p>9 MR. UNDERWOOD: Do you have a</p> <p>10 hard time hearing?</p> <p>11 THE WITNESS: Yes.</p> <p>12 MR. UNDERWOOD: He'll be glad</p> <p>13 to speak up for you. He's a little</p> <p>14 bit -- I'm kind of loud.</p> <p>15 Q. (By Mr. Fry) Tell me now what you do at</p> <p>16 the end of the day when you were</p> <p>17 working in DSI. What did you have to</p> <p>18 do to leave the plant?</p> <p>19 A. I don't understand what you're saying.</p> <p>20 What did I --</p> <p>21 Q. Okay. Let's go -- we'll go about it</p> <p>22 step by step. You're working in DSI.</p> <p>23 Okay? The meat stops coming, the shift</p>   |

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| <p style="text-align: right;">50</p> <p>1 is over. Okay? You with me?</p> <p>2 A. I'm listening.</p> <p>3 Q. What do you do first?</p> <p>4 A. I clean my equipment off.</p> <p>5 Q. Do you walk to the --</p> <p>6 A. Walk from the machines to the wash</p> <p>7 station.</p> <p>8 Q. And then you wash?</p> <p>9 A. Wash my aprons.</p> <p>10 Q. Wash your aprons and the sleeves?</p> <p>11 A. Yes.</p> <p>12 Q. And then you take them off?</p> <p>13 A. Yes.</p> <p>14 Q. And what do you do with them?</p> <p>15 A. Fold them up -- wipe them off, fold</p> <p>16 them up, and take them with us.</p> <p>17 Q. What do you do with the smock?</p> <p>18 A. We put them out in the hallway.</p> <p>19 Q. You dispose of the smock every day;</p> <p>20 correct?</p> <p>21 A. Yes. I have to get a new one.</p> <p>22 Q. And then what do you do?</p> <p>23 A. Clock out and go home at the end of the</p>                       | <p style="text-align: right;">52</p> <p>1 claims you're making here in this</p> <p>2 lawsuit?</p> <p>3 A. Explain what you're saying.</p> <p>4 Q. Describe for me the time when you</p> <p>5 complained to your supervisor that you</p> <p>6 didn't think your pay was right.</p> <p>7 A. When I get paid, about my check?</p> <p>8 Q. Yes.</p> <p>9 (Brief pause)</p> <p>10 Q. You just told me that you complained to</p> <p>11 your supervisor about your pay.</p> <p>12 A. Okay.</p> <p>13 Q. What was your complaint?</p> <p>14 A. That my hours was wrong or they didn't</p> <p>15 pay me the right amount for my time.</p> <p>16 Q. And was this on one occasion or more</p> <p>17 than one occasion?</p> <p>18 A. Several occasions.</p> <p>19 Q. And what happened?</p> <p>20 A. They said they will try to -- they will</p> <p>21 get it right for me.</p> <p>22 Q. Did they get it right for you?</p> <p>23 A. Yes and no. They're working on one</p> |
| <p style="text-align: right;">51</p> <p>1 day.</p> <p>2 Q. How long does it take you from the time</p> <p>3 you leave your workstation till you</p> <p>4 walk out the door?</p> <p>5 A. I don't know.</p> <p>6 Q. What's your understanding of how the</p> <p>7 company keeps track of the time that</p> <p>8 you work, or that you worked when you</p> <p>9 were in DSI, pack-out, and evis?</p> <p>10 A. How do they keep up with the time?</p> <p>11 Q. Yes, ma'am.</p> <p>12 A. By us clocking in and out. That's what</p> <p>13 you're asking me?</p> <p>14 Q. I'm asking you for your understanding.</p> <p>15 A. By the clock.</p> <p>16 Q. By what clock, your clock when you</p> <p>17 swiped in?</p> <p>18 A. Yes.</p> <p>19 Q. Have you ever had occasion to complain</p> <p>20 to a supervisor that you didn't think</p> <p>21 your pay was right?</p> <p>22 A. Yes.</p> <p>23 Q. And was that in connection with the</p> | <p style="text-align: right;">53</p> <p>1 now.</p> <p>2 Q. Pardon?</p> <p>3 A. Yes and no.</p> <p>4 Q. Okay. Sometimes they got it and --</p> <p>5 A. Yes.</p> <p>6 Q. -- they adjusted, they gave you more</p> <p>7 money?</p> <p>8 A. They paid the money they owed me.</p> <p>9 Q. And sometimes there was not -- they</p> <p>10 claimed there was not a mistake; is</p> <p>11 that correct?</p> <p>12 A. They have.</p> <p>13 Q. I take it when you get your check, you</p> <p>14 review the payroll information that's</p> <p>15 on the stub?</p> <p>16 A. I do.</p> <p>17 Q. Do you keep track of your hours on a</p> <p>18 daily basis?</p> <p>19 A. You mean from each day?</p> <p>20 Q. Yes.</p> <p>21 A. That I clock in?</p> <p>22 Q. Yeah.</p> <p>23 A. I do.</p>  |



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| <p style="text-align: right;">54</p> <p>1 Q. And how do you do that?</p> <p>2 A. From the time I clock in till the time</p> <p>3 I clock out.</p> <p>4 Q. Do you write it down?</p> <p>5 A. No.</p> <p>6 Q. Have you ever kept any kind of diary or</p> <p>7 notes or anything showing what you</p> <p>8 believe to be the hours that you worked</p> <p>9 at Equity or CP?</p> <p>10 A. I have.</p> <p>11 Q. And in what form was that kept?</p> <p>12 A. On a little booklet. And then I would</p> <p>13 show to my supervisor.</p> <p>14 Q. And do you still have this booklet?</p> <p>15 A. No.</p> <p>16 Q. What did you do with it?</p> <p>17 A. Once I show it to them, they get it</p> <p>18 straightened out, I don't need it.</p> <p>19 Q. And what sort of information did you</p> <p>20 record in the booklet?</p> <p>21 A. My hours.</p> <p>22 Q. Do you keep one now?</p> <p>23 A. No.</p>         | <p style="text-align: right;">56</p> <p>1 started that you believe you have a</p> <p>2 claim for time worked that you weren't</p> <p>3 paid for.</p> <p>4 A. Oh.</p> <p>5 Q. You recall that?</p> <p>6 A. Yes.</p> <p>7 Q. Have you ever sat down and calculated</p> <p>8 how much pay you think you're owed?</p> <p>9 A. I have not.</p> <p>10 Q. Have you ever been asked or required to</p> <p>11 work overtime?</p> <p>12 A. I have.</p> <p>13 Q. And when this occurred, were you paid</p> <p>14 for that overtime?</p> <p>15 A. Yes.</p> <p>16 Q. Time and a half?</p> <p>17 A. Yes.</p> <p>18 Q. During the time that you worked at the</p> <p>19 Baker Hill facility, either under CP or</p> <p>20 Equity, have you ever been disciplined</p> <p>21 for anything?</p> <p>22 A. No.</p> <p>23 MR. FRY: No further questions.</p>  |
| <p style="text-align: right;">55</p> <p>1 Q. Why did you stop?</p> <p>2 (Brief pause)</p> <p>3 A. You waiting on --</p> <p>4 Q. I'm waiting on the answer.</p> <p>5 A. I just stopped.</p> <p>6 Q. Do you know of any other employees that</p> <p>7 keep such a record?</p> <p>8 A. No.</p> <p>9 Q. Have you made any calculations of the</p> <p>10 amount of time which you claim you</p> <p>11 worked that you weren't paid for that</p> <p>12 you're claiming in this lawsuit?</p> <p>13 A. Explain it to me.</p> <p>14 THE WITNESS: Can he explain it</p> <p>15 to me?</p> <p>16 MR. UNDERWOOD: He just wants</p> <p>17 to know if you've ever added up time</p> <p>18 you're claiming that you're owed for.</p> <p>19 Have you ever sat down and written it</p> <p>20 down or tried to calculate it?</p> <p>21 THE WITNESS: Not following</p> <p>22 you.</p> <p>23 Q. (By Mr. Fry) You told me when we</p> | <p style="text-align: right;">57</p> <p>1 MR. UNDERWOOD: Okay. Let's</p> <p>2 take a quick break.</p> <p>3 (Short recess)</p> <p>4 EXAMINATION</p> <p>5 BY MR. UNDERWOOD:</p> <p>6 Q. I've got just a few follow-up with you.</p> <p>7 All right. Just to clarify, when you</p> <p>8 went to break, you would have to take</p> <p>9 off your gloves -- your two-layers</p> <p>10 gloves. I noticed you didn't mention</p> <p>11 that a couple of times. You had to</p> <p>12 take off your blue rubber gloves and</p> <p>13 your cotton liners; is that correct?</p> <p>14 A. Right.</p> <p>15 Q. Had to put those on before you came</p> <p>16 back on the line; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. And when you left for the day, you had</p> <p>19 to take them off?</p> <p>20 A. Correct.</p> <p>21 Q. When you came in for the day, you had</p> <p>22 to put them on?</p> <p>23 A. Correct.</p> |

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| <p style="text-align: right;">58</p> <p>1 Q. And when you're talking about going<br/>2 through double doors, you're not<br/>3 talking about double folding doors like<br/>4 this (indicating). You're talking<br/>5 about there's a door here and door here<br/>6 (indicating), right, two doors you have<br/>7 to go through?<br/>8 A. Right.<br/>9 Q. And when you come into that double door<br/>10 there -- actually, between those two<br/>11 doors is where you dress, is that<br/>12 right, you have to have on your smock<br/>13 and your hair net?<br/>14 A. Right.<br/>15 Q. And then when you come through that<br/>16 last door, you have to also sanitize<br/>17 your boots right there; is that<br/>18 correct?<br/>19 A. Yes.<br/>20 Q. And that's by stepping in a liquid pool<br/>21 that sanitizes your boots?<br/>22 A. Yes.<br/>23 Q. Okay. Now, what time did you say --</p>  | <p style="text-align: right;">60</p> <p>1 up your supplies?<br/>2 A. Yeah.<br/>3 MR. UNDERWOOD: Anything else,<br/>4 Robert?<br/>5 MR. CAMP: No.<br/>6 EXAMINATION<br/>7 BY MR. FRY:<br/>8 Q. Explain to me these double doors that<br/>9 your lawyer just reminded you of.<br/>10 A. Okay. This is -- when you come through<br/>11 the -- coming into the plant, you're<br/>12 coming in a double door. Right?<br/>13 You're going down a hallway. Okay.<br/>14 When we get ready to go inside where<br/>15 the meats and stuff is, this is one<br/>16 door. Okay? Then you wash your boots<br/>17 off out there. Then you go through<br/>18 another double door --<br/>19 Q. Right.<br/>20 A. -- to get inside the plant.<br/>21 Q. And what --<br/>22 A. Those are double doors.<br/>23 Q. And when do you put on your smock and</p> |
| <p style="text-align: right;">59</p> <p>1 like when you worked DSI, what time did<br/>2 the shift start?<br/>3 A. Four-thirty.<br/>4 Q. Okay. Now, you've talked about being<br/>5 paid when you clocked in. But say if<br/>6 you came in and clocked in at 4:10 and<br/>7 your shift started at 4:30, you didn't<br/>8 get paid until 4:30; is that accurate?<br/>9 A. Exactly.<br/>10 Q. And you mentioned about you clocking in<br/>11 after you picked up your equipment. I<br/>12 want to check and see if that's<br/>13 accurate, because in order to do<br/>14 that -- am I correct? -- you'd have to<br/>15 walk way out of the plant, get your<br/>16 equipment, and then walk way back up<br/>17 and clock in?<br/>18 A. Uh-huh.<br/>19 Q. Didn't you actually clock in before you<br/>20 got your equipment?<br/>21 A. When I come in, clock at the clock, go<br/>22 and pick up my supplies.<br/>23 Q. So you would clock in before you picked</p> | <p style="text-align: right;">61</p> <p>1 your apron and so forth?<br/>2 A. You can put your smock on in the door<br/>3 where you wash your boot, but we don't<br/>4 do it mostly. But we do -- half of<br/>5 them do it, now. But then when you go<br/>6 through the double doors, you put<br/>7 everything else on.<br/>8 Q. So there's an area you walk through<br/>9 between the hallway and the production<br/>10 floor where the boots are sanitized?<br/>11 A. Yes.<br/>12 Q. And once you get onto the production<br/>13 floor, you generally -- that's when you<br/>14 start donning all of your stuff?<br/>15 A. Yes.<br/>16 Q. Thank you.<br/>17 MR. UNDERWOOD: That's good.<br/>18<br/>19 (The deposition of Annie Glover-Patrick<br/>20 concluded at 1:47 p.m. on May 21,<br/>21 2008.)<br/>22<br/>23</p>                  |

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2 REPORTER'S CERTIFICATE

3 \* \* \* \* \*

4 STATE OF ALABAMA

5 COUNTY OF MONTGOMERY

6 I do hereby certify that the above  
7 and foregoing transcript was taken down  
8 by me in stenotype, and the questions  
9 and answers thereto were transcribed by  
10 means of computer-aided transcription,  
11 and that the foregoing represents a  
12 true and correct transcript of the  
13 testimony given by said witness.

14 I further certify that I am neither  
15 of counsel, nor any relation to the  
16 parties to the action, nor am I anyway  
17 interested in the result of said case.

18

19

20

21 Bridgette W. Mitchell,  
22 Certified Court Reporter and  
Commissioner for the State of  
Alabama at Large  
23 ACCR No. 231 - Expires 9/30/08  
MY COMMISSION EXPIRES 1/25/2010



**TAB 20**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner

and Certified Court Reporter

DEPOSITION TESTIMONY OF

ANNIE IVERY

\*\*\*\*\*

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of ANNIE IVERY may</p> <p>6 be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 23rd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-34</p> <p>4</p> <p>5   EXHIBITS:</p> <p>6   (No exhibits were</p> <p>7   submitted to said deposition.)</p> <p>8</p> <p>9   Reporter's Certificate         35</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. P. MARK PETRO</p> <p>5       SCHREIBER &amp; PETRO, PC</p> <p>6       ATTORNEYS AT LAW</p> <p>7       Two Metroplex Drive</p> <p>8       Suite 250</p> <p>9       Birmingham, Alabama 35209</p> <p>10      (205) 871-5080</p> <p>11</p> <p>12   ON BEHALF OF THE DEFENDANT:</p> <p>13      MR. MALCOLM S. GOULD</p> <p>14      PELINO &amp; LENTZ</p> <p>15      ATTORNEYS AT LAW</p> <p>16      One Liberty Place</p> <p>17      Thirty-Second Floor</p> <p>18      Philadelphia, Pennsylvania 19103</p> <p>19      (215) 665-1540</p> <p>20</p> <p>21   *****</p> <p>22</p> <p>23</p> |

## MERRILL LEGAL SOLUTIONS

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified</p> <p>2 Court Reporter of Eufaula, Alabama, acting as</p> <p>3 Commissioner, certify that on this date, as</p> <p>4 provided by the Alabama Rules of Civil Procedure</p> <p>5 and the foregoing stipulation of counsel, there</p> <p>6 came before me at the Law Offices of WILLIAMS,</p> <p>7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>8 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>9 2:15 p.m., ANNIE IVERY, witness in the above</p> <p>10 cause, for oral examination, whereupon the</p> <p>11 following proceedings were had:</p> <p>12</p> <p>13 ANNIE IVERY,</p> <p>14 being first duly sworn, was examined and</p> <p>15 testified as follows:</p> <p>16</p> <p>17 THE COURT REPORTER: Usual</p> <p>18 stipulations?</p> <p>19 MR. PETRO: Yes.</p> <p>20 MR. GOULD: Yes.</p> <p>21</p> <p>22 EXAMINATION</p> <p>23 BY MR. GOULD:</p>  | <p style="text-align: right;">8</p> <p>1 A. Yes, I am.</p> <p>2 Q. And where do you work?</p> <p>3 A. At another processing plant named AlaTrade</p> <p>4 in Phenix City, Alabama.</p> <p>5 Q. Did you at one time work at the chicken</p> <p>6 processing plant in Baker Hill?</p> <p>7 A. Yes, I did.</p> <p>8 Q. When was the last time you worked there?</p> <p>9 A. About two years ago.</p> <p>10 Q. How long did you work there?</p> <p>11 A. Two years.</p> <p>12 Q. And when you left the chicken plant, what</p> <p>13 position were you working in?</p> <p>14 A. I was working in the further processing cook</p> <p>15 plant, but I started off in debone.</p> <p>16 Q. How long did you work in the cook plant?</p> <p>17 A. One year.</p> <p>18 Q. And how long did you work in debone?</p> <p>19 A. One year.</p> <p>20 Q. Did you work on a debone line?</p> <p>21 A. Yes.</p> <p>22 Q. And did you work on a debone line during the</p> <p>23 entire time that you worked in debone?</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Can you please state your full name?</p> <p>2 A. Annie G. Ivery.</p> <p>3 Q. And, Ms. Ivery, you are a plaintiff in a</p> <p>4 lawsuit in the Federal Court in the Middle</p> <p>5 District of Alabama. We're here to take your</p> <p>6 deposition today.</p> <p>7 You sat in on a previous deposition. As you</p> <p>8 know, my name is Malcolm Gould. I represent</p> <p>9 Equity Group Eufaula Division in that lawsuit.</p> <p>10 We're going to take your deposition. You</p> <p>11 see that we have a court reporter here. Now, did</p> <p>12 you hear the instructions I gave during the last</p> <p>13 deposition?</p> <p>14 A. Yes.</p> <p>15 Q. All right. I'd ask that you keep all of</p> <p>16 your responses verbal and, as much as you can, I</p> <p>17 would ask that you wait until I finish my question</p> <p>18 before you give your answer.</p> <p>19 Do you understand those instructions?</p> <p>20 A. Yes.</p> <p>21 Q. Ms. Ivery, what is your home address?</p> <p>22 A. 20 Mellion Road, Pittsview, Alabama.</p> <p>23 Q. Are you currently employed?</p> | <p style="text-align: right;">9</p> <p>1 A. Yes.</p> <p>2 Q. For purposes of the deposition today, I'm</p> <p>3 only going to be asking you questions about the</p> <p>4 time you worked in debone. Okay?</p> <p>5 A. Okay.</p> <p>6 Q. So it was approximately three years ago that</p> <p>7 you worked in debone?</p> <p>8 A. It was '05.</p> <p>9 Q. During the time that you worked at the</p> <p>10 plant, were you a member of the union?</p> <p>11 A. Yes.</p> <p>12 Q. You had money taken out of your check every</p> <p>13 week for union dues?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ever attend any union meetings?</p> <p>16 A. Once.</p> <p>17 Q. Were there any --</p> <p>18 MR. GOULD: Strike that.</p> <p>19 Q. Do you have any recollection or memory as to</p> <p>20 what was discussed at that union meeting?</p> <p>21 A. I can't remember.</p> <p>22 Q. Do you recall the names of any of the people</p> <p>23 who were your union stewards during the time that</p>               |

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| <p style="text-align: right;">10</p> <p>1 you worked at the plant?</p> <p>2 A. Well, I can call one. Sharon Jones.</p> <p>3 Q. And was she a steward who worked with you in</p> <p>4 the fresh plant or in the cook plant?</p> <p>5 A. Fresh plant.</p> <p>6 Q. And when you left the plant in Baker Hill,</p> <p>7 do you recall the name of the company that owned</p> <p>8 the plant?</p> <p>9 A. Before?</p> <p>10 Q. When you left the plant in 2005. Is that</p> <p>11 when you stopped working there?</p> <p>12 A. No, that's when I started working there.</p> <p>13 Q. You started working there in 2005?</p> <p>14 A. Right.</p> <p>15 Q. And you worked there until 2007 or 2006?</p> <p>16 A. I'm sorry. You got it right. That's the</p> <p>17 last time I worked, 2005. You were right.</p> <p>18 Q. So you stopped working there in 2005?</p> <p>19 A. Yeah.</p> <p>20 Q. And do you recall when you started working</p> <p>21 there?</p> <p>22 A. No.</p> <p>23 Q. When you started working at the plant, what</p> | <p style="text-align: right;">12</p> <p>1 A. Right.</p> <p>2 Q. Now, other than meeting with any lawyers</p> <p>3 today, have you attended any meetings where this</p> <p>4 lawsuit was discussed?</p> <p>5 A. At the Econo Lodge, at the hotel.</p> <p>6 Q. And when was that?</p> <p>7 A. That was about a couple of months ago. Not</p> <p>8 more than a year ago.</p> <p>9 Q. And were there attorneys present at that</p> <p>10 meeting?</p> <p>11 A. Yes.</p> <p>12 Q. Did you take anyone with you to that</p> <p>13 meeting?</p> <p>14 A. Yes.</p> <p>15 Q. Who did you take with you?</p> <p>16 A. My husband.</p> <p>17 Q. And what is your husband's name?</p> <p>18 A. Johnny Mellion.</p> <p>19 Q. And is he also a plaintiff in this lawsuit?</p> <p>20 A. No.</p> <p>21 Q. Okay. Now, do you recall anything that was</p> <p>22 discussed at this meeting?</p> <p>23 MR. PETRO: Anything that was told her</p>  |
| <p style="text-align: right;">11</p> <p>1 was the name of the company that was on your</p> <p>2 paychecks?</p> <p>3 A. Keystone Equity Group.</p> <p>4 Q. So during the time that you worked at the</p> <p>5 plant it was owned by the same company the entire</p> <p>6 time?</p> <p>7 A. Right, yes.</p> <p>8 Q. Ma'am, how did you first learn about this</p> <p>9 lawsuit?</p> <p>10 A. Through a friend.</p> <p>11 Q. And who was that?</p> <p>12 A. Ruby Streeter.</p> <p>13 Q. And what did she tell you about the lawsuit?</p> <p>14 A. She just told me that they had a lawsuit</p> <p>15 going on for Keystone, and if you worked there</p> <p>16 within the last three years, you qualified for it.</p> <p>17 So I took it upon myself to go ahead and go</p> <p>18 through the process of it.</p> <p>19 Q. Okay. Did she give you a phone number or an</p> <p>20 address?</p> <p>21 A. She gave me a phone number for The Cochran</p> <p>22 Firm.</p> <p>23 Q. And you called The Cochran Firm?</p>                     | <p style="text-align: right;">13</p> <p>1 by her lawyers --</p> <p>2 MR. GOULD: I'm asking if she recalls</p> <p>3 anything that was discussed at the meeting.</p> <p>4 MR. PETRO: Anything your lawyers told</p> <p>5 you is privileged. You don't have to disclose</p> <p>6 that.</p> <p>7 Q. Was your husband with you? Did he go into</p> <p>8 this meeting with you?</p> <p>9 A. Yes.</p> <p>10 MR. GOULD: Well, if there were other</p> <p>11 people present who are not plaintiffs in the</p> <p>12 lawsuit, then the privilege is waived.</p> <p>13 MR. PETRO: Then I think you can ask</p> <p>14 him; but I don't think she has to answer you what</p> <p>15 her lawyers told her.</p> <p>16 MR. GOULD: Are you directing the</p> <p>17 client not to answer any questions that I ask her</p> <p>18 about that meeting?</p> <p>19 MR. PETRO: Anything her lawyer has</p> <p>20 told her --</p> <p>21 Any communications you've had with your</p> <p>22 lawyer you do not have to tell him about.</p> <p>23 THE WITNESS: Okay.</p> |

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| <p style="text-align: right;">14</p> <p>1 Q. Now, when you attended this meeting at the<br/> 2 Econo Lodge, did your husband go into the meeting?<br/> 3 A. Well, he went into the room, yes.<br/> 4 Q. And did he stay there during the meeting?<br/> 5 A. Yes.<br/> 6 Q. And he sat there through the entire meeting?<br/> 7 A. Yes.<br/> 8 MR. GOULD: Now, Counsel, are you still<br/> 9 going to maintain that the privilege prevents me<br/> 10 from asking her about anything that was discussed<br/> 11 in that meeting?<br/> 12 MR. PETRO: Yes.<br/> 13 MR. GOULD: Can you mark that spot in<br/> 14 the transcript, please?<br/> 15 (Mr. Gould requested that this<br/> 16 portion of colloquy be "marked"<br/> 17 as discussed.)<br/> 18 Q. Other than attending the meeting at the<br/> 19 Econo Lodge, have you attended any other meetings<br/> 20 where this lawsuit was discussed?<br/> 21 A. No, sir.<br/> 22 Q. That's the only one?<br/> 23 A. Yes.</p>  | <p style="text-align: right;">16</p> <p>1 you?<br/> 2 A. No, not at that time.<br/> 3 Q. So you had to leave that at the plant?<br/> 4 A. Yes.<br/> 5 Q. There was a bin where you would dispose of<br/> 6 it at the end of your shift?<br/> 7 A. Yes.<br/> 8 Q. Ma'am, would you normally drive yourself to<br/> 9 work?<br/> 10 A. Yes.<br/> 11 Q. When you would arrive at the plant was there<br/> 12 any sort of security that you would have to go<br/> 13 through?<br/> 14 A. Yes.<br/> 15 Q. Can you describe that for me?<br/> 16 A. Well, you would have to get, at the time --<br/> 17 well, when you get employed, they are required to<br/> 18 give you a sticker for your car. And to enter the<br/> 19 plant you would have to present that sticker.<br/> 20 If you're riding with somebody else you<br/> 21 would have to show your badge with your number on<br/> 22 it. And you would just have to wait to go through<br/> 23 the security gate.</p>  |
| <p style="text-align: right;">15</p> <p>1 Q. All right, ma'am. During the time that you<br/> 2 worked on the debone line, were there any items of<br/> 3 clothing or equipment that you had to wear when<br/> 4 you were out on the production floor?<br/> 5 A. Yes.<br/> 6 Q. And can you describe these for me?<br/> 7 A. We had to wear several items of equipment<br/> 8 which consisted of a hair net, earplugs, safety<br/> 9 glasses, smocks, apron, sleeves, cutting glove,<br/> 10 arm guard, boots. Did I say apron?<br/> 11 Q. Yes, you did.<br/> 12 A. Okay.<br/> 13 Q. And during that time that you were employed<br/> 14 at the plant, could you wear your boots outside of<br/> 15 the plant?<br/> 16 A. Yes.<br/> 17 Q. You could wear them from home if you wanted?<br/> 18 A. Yes.<br/> 19 Q. Were there any other items that you could<br/> 20 wear from home if you wanted?<br/> 21 A. No.<br/> 22 Q. Now, during the time that you were working<br/> 23 in debone, could you take your smock home with</p> | <p style="text-align: right;">17</p> <p>1 Q. You didn't have to have your car searched or<br/> 2 anything like that?<br/> 3 A. No.<br/> 4 Q. After you would get past that and park in<br/> 5 the parking lot, was there any other security that<br/> 6 you would have to clear to get into the plant?<br/> 7 A. No.<br/> 8 Q. You could just walk right in?<br/> 9 A. Yes.<br/> 10 Q. Can you describe for me what you would do as<br/> 11 you first entered the plant?<br/> 12 A. Okay. When you first entered the plant you<br/> 13 go -- well, when you enter the break room you<br/> 14 clock in. Then you get your equipment. After you<br/> 15 get your equipment, you suit up. Then you go on<br/> 16 the floor.<br/> 17 But before you enter the floor you would<br/> 18 have to wash your hands and sanitize everything.<br/> 19 You're going to have to go through with your boots<br/> 20 before you enter going onto the floor.<br/> 21 Q. So when you would first enter the building<br/> 22 would you be wearing your boots?<br/> 23 A. Yes.</p> |

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| <p style="text-align: right;">18</p> <p>1 Q. And after you walked through the doors, what<br/>2 would be the next thing you would do?<br/>3 A. You would have to sanitize your boots.<br/>4 Q. Would you clock in before you sanitized your<br/>5 boots?<br/>6 A. No.<br/>7 Q. Where would you sanitize your boots?<br/>8 A. Yes, yes, yes. I'm sorry. You would have<br/>9 to clock in first before you even entered the<br/>10 floor.<br/>11 Q. Okay. So where would you clock in?<br/>12 A. In the break room.<br/>13 Q. And which break room would you use to clock<br/>14 in?<br/>15 A. The first break room when you entered the<br/>16 building.<br/>17 Q. Was that the bigger one or the smaller one?<br/>18 A. The bigger one. Both of them have a time<br/>19 clock there.<br/>20 Q. All right. So that would be the debone<br/>21 break room?<br/>22 A. Right.<br/>23 Q. And you would clock in there. Would you be</p> | <p style="text-align: right;">20</p> <p>1 A. The apron is a plastic shield that covers<br/>2 your smock which ties from the back.<br/>3 Q. Was it one of these blue plastic aprons?<br/>4 A. Right.<br/>5 Q. And you're telling me that you went to the<br/>6 supply room and you got a new plastic apron every<br/>7 single day that you would work at the plant?<br/>8 A. Yes.<br/>9 Q. You would never reuse it?<br/>10 A. It's optional.<br/>11 Q. So you weren't required to get a new apron<br/>12 every day; you could have reused your existing<br/>13 apron; is that correct?<br/>14 A. Yes.<br/>15 Q. As long as it wasn't damaged you could reuse<br/>16 the apron?<br/>17 A. Right. And it depends on the job that you<br/>18 do. Most of the time you would mess it up so bad<br/>19 that you would have to get a new one every day.<br/>20 Q. And the sleeves? Could you reuse the<br/>21 sleeves if you wanted to?<br/>22 A. You could.<br/>23 Q. And same thing with the gloves?</p>                                    |
| <p style="text-align: right;">19</p> <p>1 carrying any of your items of clothing or<br/>2 equipment with you?<br/>3 A. No. After you clock in, then you go to the<br/>4 supply room and you purchase your supplies.<br/>5 Q. So every day you would get an entire new set<br/>6 of supplies?<br/>7 A. Yes.<br/>8 Q. So every day you would get a new apron?<br/>9 A. Yes.<br/>10 Q. Every day you would get new sleeves?<br/>11 A. Yes.<br/>12 Q. Was that something that you were required to<br/>13 do every day?<br/>14 A. Yes.<br/>15 Q. Every day you would get a new arm guard?<br/>16 A. No. You would get one arm guard. And if<br/>17 you lose that one, you would have to buy the next<br/>18 one.<br/>19 Q. And you wouldn't have to get new boots every<br/>20 day, right?<br/>21 A. No.<br/>22 Q. Can you describe for me the apron that you<br/>23 would wear?</p>   | <p style="text-align: right;">21</p> <p>1 A. Well, they really want you to get new gloves<br/>2 every day.<br/>3 Q. Now, you told me you used a cutting glove;<br/>4 is that correct?<br/>5 A. Yes.<br/>6 Q. Is that something that you would have to get<br/>7 at the supply room?<br/>8 A. Yes.<br/>9 Q. What was this cutting glove like?<br/>10 A. It's not like a regular glove; it's, like,<br/>11 tighter than a regular glove, and it's for<br/>12 cutting. And most of the time if you're on debone<br/>13 you can get that or a chain glove. But the chain<br/>14 glove you cannot take, but the cutting glove you<br/>15 can.<br/>16 Q. So after you would gather your items at the<br/>17 supply desk, what would you do next?<br/>18 A. You would suit up, you would go through the<br/>19 -- I keep getting break room, but not the break<br/>20 room. You would go to the floor and suit up.<br/>21 Q. Okay. So you would clock in, go to the<br/>22 supply desk, and then go right out to the floor?<br/>23 A. Yes.</p> |



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| <p style="text-align: right;">22</p> <p>1 Q. What shift did you work when you were<br/>2 working debone?<br/>3 A. Second.<br/>4 Q. Night shift?<br/>5 A. Right.<br/>6 Q. What time would that shift normally start?<br/>7 A. From three to twelve or from 3:30 to 12:30.<br/>8 Q. And that's while you were working in debone?<br/>9 A. Yes. That shift that I gave you, that's on<br/>10 the cook plant. Debone was from four to twelve.<br/>11 Q. That's what I thought.<br/>12 A. I'm sorry.<br/>13 Q. That's okay. So when you were working in<br/>14 the debone area, your shift would start at four?<br/>15 A. Yes.<br/>16 Q. And it would normally end at twelve?<br/>17 A. Yes.<br/>18 Q. What time would you normally arrive at the<br/>19 plant when you were working in debone?<br/>20 A. I would arrive, like, between 3:30 and --<br/>21 but we don't have to be on line until four. So<br/>22 basically 3:30 until four.<br/>23 Q. So when it was time for you to go out onto</p>                                    | <p style="text-align: right;">24</p> <p>1 net?<br/>2 A. No.<br/>3 Q. So you would put your hair net on then?<br/>4 A. No. You have to have your hair net on<br/>5 before you enter the double doors. Once upon a<br/>6 time you didn't, but it was required when I was<br/>7 working there. You have to have your hair net on.<br/>8 Q. Okay. Then you would put on your other<br/>9 items once you passed through the double doors and<br/>10 you were out on the production floor?<br/>11 A. Yes.<br/>12 Q. And then what would you do after you put on<br/>13 all of your items?<br/>14 A. Report to your station and perform your job<br/>15 duty.<br/>16 Q. Approximately how long would it take you<br/>17 from the time that you passed through the<br/>18 production doors to the time that you got to your<br/>19 station?<br/>20 A. I would estimate at least five minutes.<br/>21 Q. Now, when you worked on the debone line, did<br/>22 you work with a knife?<br/>23 A. Yes.</p> |
| <p style="text-align: right;">23</p> <p>1 the production floor, can you describe for me what<br/>2 you would do?<br/>3 A. Okay. You would walk through the double<br/>4 doors; you would turn to your station, whichever<br/>5 side your station is on. You could turn left and<br/>6 that's the debone line; and if you go right,<br/>7 that's DSI.<br/>8 You walk through the double doors, you<br/>9 sanitize your boots, go to the wash area and wash<br/>10 up, and you would go to your line.<br/>11 Q. Would you put on your items of clothing or<br/>12 equipment after you walked through the double<br/>13 doors?<br/>14 A. No.<br/>15 Q. What would you do right after you walked<br/>16 through the double doors?<br/>17 A. You would go to the station and suit up.<br/>18 Q. When you say "suit up," what do you mean.<br/>19 A. You put on all your equipment that's<br/>20 required.<br/>21 Q. So would you already be wearing your boots?<br/>22 A. Yes.<br/>23 Q. And would you already be wearing your hair</p> | <p style="text-align: right;">25</p> <p>1 Q. Would you have to go to some sort of room to<br/>2 get your knife?<br/>3 A. No. The supervisor would have to issue it<br/>4 to you.<br/>5 Q. Would you get that at the line?<br/>6 A. Yes.<br/>7 Q. Your supervisor would bring it to you?<br/>8 A. Yes.<br/>9 Q. During the course of your shift, would you<br/>10 get any breaks?<br/>11 A. Yes.<br/>12 Q. How many breaks would you get?<br/>13 A. Two.<br/>14 Q. How long were your breaks?<br/>15 A. 30 minutes.<br/>16 Q. And how would you know when you were<br/>17 relieved to go to break?<br/>18 A. Because you can't leave the line until the<br/>19 last cone with the meat on it is finished. Once<br/>20 the last cone that has meat on it is finished,<br/>21 then you are required to leave. Other than that,<br/>22 you cannot leave before the line is finished.<br/>23 Q. So you would have to wait until the last</p>   |



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| <p style="text-align: right;">26</p> <p>1 cone with meat on it passed your station?</p> <p>2 A. Right.</p> <p>3 Q. But once the last cone with meat on it</p> <p>4 passed your station, you could leave; is that</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. So if you were at the front of the line, as</p> <p>8 long as that cone had passed your station, you</p> <p>9 could leave, even if the cones were still going to</p> <p>10 the back of the line; is that correct?</p> <p>11 A. It would depend on the supervisor that you</p> <p>12 have.</p> <p>13 Q. So would the supervisor have to release you</p> <p>14 for break or would you just be able to leave when</p> <p>15 the chicken passed your position?</p> <p>16 A. Everybody's break is at the same time, so</p> <p>17 you can't leave -- that's why I said it depends on</p> <p>18 the supervisor.</p> <p>19 If the cone has passed you, they can let you</p> <p>20 leave, but you're still going to go at the same</p> <p>21 time. The break is still at the same time.</p> <p>22 Q. And can you describe for me what you would</p> <p>23 do when you would leave the line?</p> | <p style="text-align: right;">28</p> <p>1 A. Yes.</p> <p>2 Q. And would you wipe off your sleeves?</p> <p>3 A. I would.</p> <p>4 Q. Anything else?</p> <p>5 A. No.</p> <p>6 Q. What about your apron?</p> <p>7 A. You can wash the apron because raw meat is</p> <p>8 constantly being on you all day because you were</p> <p>9 constantly cutting.</p> <p>10 Q. Were you required to wash off your apron</p> <p>11 before you went out on break?</p> <p>12 A. It doesn't require it, but, I mean, if you</p> <p>13 want -- if you want to do it cleanly. It's up to</p> <p>14 you; it's not required.</p> <p>15 Q. All right. Approximately how long would you</p> <p>16 spend washing up?</p> <p>17 A. At least five minutes. And then some people</p> <p>18 -- some people might take longer. But I would</p> <p>19 estimate five minutes, because you have to put all</p> <p>20 this stuff back on, everything. From the time</p> <p>21 that you got there from the beginning, you have to</p> <p>22 put it all back on.</p> <p>23 Q. I'm just talking about when you would leave</p> |
| <p style="text-align: right;">27</p> <p>1 A. Okay. You would go to the wash area, wash</p> <p>2 up, and then take off all of your equipment; and</p> <p>3 after you take off all of your equipment, then you</p> <p>4 go to the break room.</p> <p>5 Q. How long would it take you from the time</p> <p>6 that you left the line until the time you would</p> <p>7 exit the production floor?</p> <p>8 A. From the time you leave the line? I would</p> <p>9 say about five minutes.</p> <p>10 Q. Now, you told me that you would wash up; is</p> <p>11 that correct?</p> <p>12 A. Yeah.</p> <p>13 Q. Can you describe for me --</p> <p>14 A. After you've been working with raw meat, you</p> <p>15 don't want to just leave and go out off the floor</p> <p>16 to the break room, so you would wash first.</p> <p>17 Q. And what would you wash?</p> <p>18 A. Wash your hands, your gloves -- well, you</p> <p>19 would wash your gloves before you take them off so</p> <p>20 that you won't have any raw particles on your</p> <p>21 gloves.</p> <p>22 Q. So you're talking about washing your hands</p> <p>23 with your gloves on?</p>           | <p style="text-align: right;">29</p> <p>1 for break. And I believe you told me that it</p> <p>2 would take about five minutes from the time you</p> <p>3 left your work station to the time you left the</p> <p>4 production floor; is that correct?</p> <p>5 A. When you suit up?</p> <p>6 Q. No. When you're leaving from break,</p> <p>7 approximately how long would it take you from the</p> <p>8 time you left your position on the line until you</p> <p>9 left the production floor and were out into the</p> <p>10 hallway?</p> <p>11 A. Five minutes.</p> <p>12 Q. Approximately how much of that time would</p> <p>13 you spend washing up?</p> <p>14 A. At least two minutes.</p> <p>15 Q. How long would you spend taking off your</p> <p>16 smock?</p> <p>17 A. I can't say.</p> <p>18 Q. How long would it take you to take off your</p> <p>19 gloves?</p> <p>20 A. I can't say. Everything is different time.</p> <p>21 I mean, I can't estimate the time.</p> <p>22 Q. And would you do the same thing when you</p> <p>23 were leaving for your second break?</p>        |

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| <p style="text-align: right;">30</p> <p>1 A. Everything is the same.</p> <p>2 Q. What would you do when you would leave the</p> <p>3 production floor for break? When you would get</p> <p>4 out into the hallway, what would you do next?</p> <p>5 A. Before I leave -- you mean, before I leave</p> <p>6 to enter -- I mean, before I leave the job site to</p> <p>7 leave the hallway? Before I enter the doors going</p> <p>8 out?</p> <p>9 Q. Okay. What would you do then?</p> <p>10 A. When I'm going to break what would I do</p> <p>11 before I --</p> <p>12 Q. After you leave the production floor -- I</p> <p>13 had asked you what would you do before you would</p> <p>14 leave the production floor and how long that would</p> <p>15 take you.</p> <p>16 A. I would take off all my equipment.</p> <p>17 Q. Right, right. You've told me that. After</p> <p>18 you've done that and you're leaving through the</p> <p>19 double doors to go out to break, what would you do</p> <p>20 next? That's what I'm asking you now.</p> <p>21 A. I would eat my lunch.</p> <p>22 Q. So you would go to the break room?</p> <p>23 A. Right. I would go to the break room and eat</p>                         | <p style="text-align: right;">32</p> <p>1 or anything like that?</p> <p>2 A. No.</p> <p>3 Q. And that would be the same when you would</p> <p>4 return from your second break?</p> <p>5 A. Yes.</p> <p>6 Q. At the end of your shift how would you know</p> <p>7 that you were released to leave?</p> <p>8 A. Because you cannot leave unless the last</p> <p>9 cone is finished with the meat on it.</p> <p>10 Q. All right. And then would you be released</p> <p>11 by your supervisor, or would you be able to leave</p> <p>12 when the last cone passed you?</p> <p>13 A. You would have to be released by your</p> <p>14 supervisor.</p> <p>15 Q. What would you do then?</p> <p>16 A. I would go to the wash area and wash up and</p> <p>17 take off all the equipment and then leave.</p> <p>18 Q. So you would leave the line and you would go</p> <p>19 to the sink again; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And you would wash up?</p> <p>22 A. Yes.</p> <p>23 Q. Is that the same as you have described for</p> |
| <p style="text-align: right;">31</p> <p>1 my lunch.</p> <p>2 Q. And how long would you be in the break room?</p> <p>3 A. We only have a 30-minute break; so I would</p> <p>4 estimate it to be about 15 minutes, because we</p> <p>5 have to put the same thing on that we took off.</p> <p>6 Q. Can you describe for me what you would do</p> <p>7 when you would return from break?</p> <p>8 A. Okay. I would enter the double doors,</p> <p>9 sanitize my boots and go through the double doors</p> <p>10 and suit up, put on all my equipment to perform my</p> <p>11 job duty.</p> <p>12 Q. How would you know that it was time to</p> <p>13 return from break?</p> <p>14 A. Because they have a clock in the break room,</p> <p>15 a time clock. You can look at the time clock and</p> <p>16 it's going to show you the time. And you already</p> <p>17 know what time you have to return back to work.</p> <p>18 Q. And approximately how long would it take you</p> <p>19 from the time you passed through the double doors</p> <p>20 until the time you got back to your position on</p> <p>21 the line?</p> <p>22 A. At least five minutes.</p> <p>23 Q. Did you ever time yourself with a stopwatch</p> | <p style="text-align: right;">33</p> <p>1 me before?</p> <p>2 A. Yes. But that's optional too because you're</p> <p>3 going home.</p> <p>4 Q. Okay. And then after you would wash up,</p> <p>5 would you take off your items?</p> <p>6 A. Yes.</p> <p>7 Q. And what items would you take off inside the</p> <p>8 production area?</p> <p>9 A. All of the items except your boots.</p> <p>10 Q. Okay. And then would you exit the</p> <p>11 production area after you took off your items?</p> <p>12 A. No.</p> <p>13 Q. What would you do then?</p> <p>14 A. Leave the building.</p> <p>15 Q. So you would leave the production area then?</p> <p>16 A. Yes.</p> <p>17 Q. You would go out through the double doors?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Would you get rid of your smock?</p> <p>20 A. You would have to leave your smock in a bin.</p> <p>21 Q. And would you clock out?</p> <p>22 A. Yes.</p> <p>23 Q. Was the bin on the way to where you would</p>  |

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| <p>34</p> <p>1 clock out?</p> <p>2 A. Yes.</p> <p>3 Q. And you would clock out in the debone break</p> <p>4 room?</p> <p>5 A. Yes.</p> <p>6 Q. And after that you would leave?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 MR. GOULD: Can we stop for a second?</p> <p>10 I need to check one thing.</p> <p>11 MR. PETRO: Okay.</p> <p>12 (A brief recess was taken.)</p> <p>13 MR. GOULD: I'm done.</p> <p>14 MR. PETRO: No questions.</p> <p>15</p> <p>16 (The deposition was concluded.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |  |
| <p>35</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 BARBOUR COUNTY</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription, and that the foregoing represents</p> <p>11 a true and correct transcript of the testimony</p> <p>12 given by said witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor kin to the parties to the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18</p> <p>19 CYNTHIA M. NOAKES, Commissioner</p> <p>20 Certified Court Reporter,</p> <p>21 ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23 Commission Expires 07/08/2009</p> |  |

**TAB 21**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
JOHNNY L. JACKSON

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| <p style="text-align: right;">2</p> <p>1 STIPULATION</p> <p>2</p> <p>3 IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of JOHNNY L. JACKSON</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 21st day</p> <p>10 of May, 2008.</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18 IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2 EXAMINATION BY: PAGE NUMBER:</p> <p>3 MR. GOULD 6-35</p> <p>4 MR. CAMP 35-37</p> <p>5</p> <p>6 EXHIBITS:</p> <p>7 (No exhibits were</p> <p>8 submitted to said deposition.)</p> <p>9</p> <p>10 Reporter's Certificate 38</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 *****</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3 IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4 MR. ROBERT J. CAMP</p> <p>5 THE COCHRAN FIRM, P.C.</p> <p>6 ATTORNEYS AT LAW</p> <p>7 505 North 20th Street</p> <p>8 Suite 825</p> <p>9 Birmingham, Alabama 35203</p> <p>10 (205) 244-1115</p> <p>11</p> <p>12 ON BEHALF OF THE DEFENDANT:</p> <p>13 MR. MALCOLM S. GOULD</p> <p>14 PELINO &amp; LENTZ</p> <p>15 ATTORNEYS AT LAW</p> <p>16 One Liberty Place</p> <p>17 Thirty-Second Floor</p> <p>18 1650 Market Street</p> <p>19 Philadelphia, Pennsylvania 19103</p> <p>20 (215) 665-1540</p> <p>21</p> <p>22 *****</p> <p>23</p> |

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified</p> <p>2 Court Reporter of Eufaula, Alabama, acting as</p> <p>3 Commissioner, certify that on this date, as</p> <p>4 provided by the Alabama Rules of Civil Procedure</p> <p>5 and the foregoing stipulation of counsel, there</p> <p>6 came before me at the Law Offices of WILLIAMS,</p> <p>7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>8 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>9 4:20 p.m., JOHNNY L. JACKSON, witness in the above</p> <p>10 cause, for oral examination, whereupon the</p> <p>11 following proceedings were had:</p> <p>12</p> <p>13 JOHNNY L. JACKSON,</p> <p>14 being first duly sworn, was examined and</p> <p>15 testified as follows:</p> <p>16</p> <p>17 THE COURT REPORTER: Usual</p> <p>18 stipulations?</p> <p>19 MR. CAMP: Yes.</p> <p>20 MR. GOULD: Yes.</p> <p>21</p> <p>22 EXAMINATION</p> <p>23 BY MR. GOULD:</p>  | <p style="text-align: right;">8</p> <p>1 answering truthfully to the best of your ability.</p> <p>2 Okay?</p> <p>3 A. Yes, sir.</p> <p>4 Q. All right. Now, can you state your full</p> <p>5 name for the record, please?</p> <p>6 A. Johnny L. Jackson.</p> <p>7 Q. And, Mr. Jackson, what is your home address?</p> <p>8 A. 242 Kaigler Road, Georgetown, Georgia.</p> <p>9 Q. Now, Mr. Jackson, you understand that you</p> <p>10 are a plaintiff in this lawsuit?</p> <p>11 A. Yes.</p> <p>12 Q. What is your understanding of what the</p> <p>13 lawsuit is about?</p> <p>14 A. For wages -- I mean, for working for hours</p> <p>15 and not getting paid for it. I feel like I worked</p> <p>16 40 hours and I didn't get paid for them.</p> <p>17 Q. Did you say four hours?</p> <p>18 A. Forty.</p> <p>19 Q. Forty hours?</p> <p>20 A. Yes.</p> <p>21 Q. Forty hours total?</p> <p>22 A. Yes.</p> <p>23 Q. And can you explain to me what you mean by</p>                       |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Mr. Jackson. My name is</p> <p>2 Malcolm Gould. I'm an attorney from the law firm</p> <p>3 of Pelino &amp; Lentz in Philadelphia. I represent</p> <p>4 Equity Group Eufaula Division, LLC, in a lawsuit</p> <p>5 that's been filed in Federal Court in the Middle</p> <p>6 District of Alabama. You are a plaintiff in that</p> <p>7 case. We're here today to take your deposition.</p> <p>8 As you can see, we have a court reporter</p> <p>9 here who's taking down my questions and your</p> <p>10 answers. Because of that, I would ask that you</p> <p>11 keep all of your answers verbal, instead of a nod</p> <p>12 of the head or a shake of the head or a shrug of</p> <p>13 the shoulders. She can't really take that down</p> <p>14 and put it on the transcript, so I'd ask that you</p> <p>15 keep all of your answers verbal.</p> <p>16 A. Yes, sir.</p> <p>17 Q. If I ask a question and you don't understand</p> <p>18 it, feel free to ask me to repeat it or rephrase</p> <p>19 it, and I'll try to repeat the question or ask the</p> <p>20 question in a different way so that it's able to</p> <p>21 be understood.</p> <p>22 If you do answer my question, I'm going to</p> <p>23 assume that you understood it and that you're</p> | <p style="text-align: right;">9</p> <p>1 that forty hours that you were not paid for?</p> <p>2 A. I mean, I would say -- I don't understand</p> <p>3 what you're saying. Could you repeat?</p> <p>4 Q. Okay. You told me that it was your</p> <p>5 understanding that the lawsuit was about wages; is</p> <p>6 that correct?</p> <p>7 A. Right.</p> <p>8 Q. And that there were 40 hours that you were</p> <p>9 not paid for?</p> <p>10 A. No, I didn't say 40 hours I wasn't paid for.</p> <p>11 I said I worked 40 hours but I wasn't getting paid</p> <p>12 for the whole 40 hours.</p> <p>13 Q. Okay. I understand. So you're saying you</p> <p>14 worked 40 hours but were not paid for 40 hours?</p> <p>15 A. Right.</p> <p>16 Q. Every week?</p> <p>17 A. Yes.</p> <p>18 Q. Are you currently employed at the chicken</p> <p>19 processing plant?</p> <p>20 A. No, sir.</p> <p>21 Q. When was the last time that you worked at</p> <p>22 the plant?</p> <p>23 A. It was '04.</p> |

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| <p style="text-align: right;">10</p> <p>1 Q. And how long did you work at the plant?</p> <p>2 A. I worked at the plant 90 days.</p> <p>3 Q. Can you explain to me what you mean when you</p> <p>4 say that you worked 40 hours but you weren't paid</p> <p>5 for it?</p> <p>6 A. For the time it takes to put on the PPE, I</p> <p>7 mean, I'm losing time at lunch and I'm losing time</p> <p>8 for break, which I'm supposed to get paid for.</p> <p>9 Q. Now, Mr. Jackson, how did you first find out</p> <p>10 about this lawsuit?</p> <p>11 A. Through friends.</p> <p>12 Q. And what did they tell you about the</p> <p>13 lawsuit?</p> <p>14 A. That it was a lawsuit for not getting paid</p> <p>15 for the time you were working for.</p> <p>16 Q. Do you remember who it was that told you</p> <p>17 about the lawsuit?</p> <p>18 A. No, I can't remember.</p> <p>19 Q. Have you discussed the lawsuit with anyone</p> <p>20 other than your attorneys?</p> <p>21 A. No, sir.</p> <p>22 Q. You say that you were employed at the plant</p> <p>23 for 90 days?</p>   | <p style="text-align: right;">12</p> <p>1 the packout area?</p> <p>2 A. No. I would be doing catching/bagging one</p> <p>3 day, and maybe the next day I would be putting the</p> <p>4 bags in boxes, and the next day I might be putting</p> <p>5 them on the pallet.</p> <p>6 Q. All right. In connection with your work in</p> <p>7 packout, were there any items of clothing or</p> <p>8 equipment that you were required to wear when you</p> <p>9 were out on the production floor?</p> <p>10 A. Just the PPE clothes that was required for</p> <p>11 me in my department.</p> <p>12 Q. Can you list what those items were?</p> <p>13 A. Yes. It was gloves, it was smocks, hair</p> <p>14 nets. And at the time I had a beard, so I had to</p> <p>15 wear a beard net. Rubber boots and earplugs. And</p> <p>16 at the time, we had to wear safety glasses.</p> <p>17 Q. Out of any of those items you just listed</p> <p>18 for me, were there any that you could wear from</p> <p>19 home to the plant?</p> <p>20 A. Your boots.</p> <p>21 Q. And during the entire time you were employed</p> <p>22 at the plant, is that something that you were able</p> <p>23 to do?</p> |
| <p style="text-align: right;">11</p> <p>1 A. Yes, sir.</p> <p>2 Q. Were you in the same position during that</p> <p>3 entire 90-day period?</p> <p>4 A. Yes.</p> <p>5 Q. And where were you employed, in what area?</p> <p>6 A. I was working in what they call packout.</p> <p>7 Q. And you worked in packout during the whole</p> <p>8 time that you were employed at the plant; is that</p> <p>9 correct?</p> <p>10 A. Yes, I was in packout.</p> <p>11 Q. Did you work in any other positions?</p> <p>12 A. No, sir.</p> <p>13 Q. Can you describe for me what you recall</p> <p>14 about what the job responsibilities of packout</p> <p>15 included?</p> <p>16 A. Well, packout consists of mainly when the</p> <p>17 chickens come out and were being processed, and</p> <p>18 they drop off in a big drum; and we have bags that</p> <p>19 we set up under the machine, and we catch so many</p> <p>20 and fill them up and tie them up and then box them</p> <p>21 up and put them on a pallet and label them, and</p> <p>22 then they're ready to go.</p> <p>23 Q. Okay. Did you do any one particular job in</p> | <p style="text-align: right;">13</p> <p>1 A. Yes.</p> <p>2 Q. What about your smock? Was that something</p> <p>3 that you could take home with you?</p> <p>4 A. Yes.</p> <p>5 Q. Was that something that you were supposed to</p> <p>6 do, take it home and wash it?</p> <p>7 A. Well, it wasn't mandatory because you would</p> <p>8 get a new one every day. You would just turn the</p> <p>9 old one in and get a new one every day.</p> <p>10 Q. Okay. These other items that you've listed</p> <p>11 for me, your gloves, can you describe for me what</p> <p>12 kind of gloves they were that you wore?</p> <p>13 A. I wore the rubber gloves, the long rubber</p> <p>14 gloves.</p> <p>15 Q. Did you wear any other gloves?</p> <p>16 A. No.</p> <p>17 Q. Did you wear any cotton gloves?</p> <p>18 A. No.</p> <p>19 Q. Did you wear an apron or sleeves?</p> <p>20 A. Yes.</p> <p>21 Q. So you wore an apron?</p> <p>22 A. Yes.</p> <p>23 Q. Did you wear the plastic sleeves?</p>  |



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| <p style="text-align: right;">14</p> <p>1 A. No. The gloves were -- they came up to<br/>2 here. That was the main thing we needed in my<br/>3 department.<br/>4 Q. Okay. How many of those items would you<br/>5 normally take home with you at the end of the day?<br/>6 A. Maybe two.<br/>7 Q. All right. Did you have a locker at the<br/>8 plant?<br/>9 A. No, sir.<br/>10 Q. Would you take your safety glasses home with<br/>11 you?<br/>12 A. No, I wouldn't take my safety glasses.<br/>13 Q. What would you do with them?<br/>14 A. My friend had a locker and I would share his<br/>15 locker. But I never did receive a locker.<br/>16 Q. So you would leave them in a locker?<br/>17 A. Right.<br/>18 Q. Your friend's locker?<br/>19 A. Right.<br/>20 Q. What about the apron?<br/>21 A. No.<br/>22 Q. Was that something that you would leave in<br/>23 the locker?</p>  | <p style="text-align: right;">16</p> <p>1 A. Yes.<br/>2 Q. And earplugs?<br/>3 A. I took them home with me too.<br/>4 Q. Okay. And that was the same during the time<br/>5 you were employed at the plant?<br/>6 A. Yes, sir.<br/>7 Q. When you were employed at the plant, were<br/>8 you a member of the union?<br/>9 A. No, sir.<br/>10 Q. You didn't have any deductions from your<br/>11 paycheck for union dues?<br/>12 A. No, sir.<br/>13 Q. Did you ever attend any union meetings?<br/>14 A. No, sir.<br/>15 Q. All right. When you would report to the<br/>16 plant, would you drive yourself to work?<br/>17 A. Mostly we carpooled.<br/>18 Q. Was there some sort of security that you had<br/>19 to clear when you were getting to the plant?<br/>20 A. No, sir.<br/>21 Q. Was there a guard shack in the driveway?<br/>22 A. At the time, there wasn't a guard shack.<br/>23 Well, at the front it was; but once you got in the</p> |
| <p style="text-align: right;">15</p> <p>1 A. No. That's something that we would turn in.<br/>2 Q. The blue apron?<br/>3 A. I didn't wear the blue; I had the white<br/>4 apron. Different departments had different<br/>5 things.<br/>6 Q. So you had like a white paper apron?<br/>7 A. That you would tie in the back.<br/>8 Q. And that was something that you could throw<br/>9 away?<br/>10 A. Right. And get a new one every day.<br/>11 Q. And the rubber gloves, is that something<br/>12 that you could take home at the end of the day?<br/>13 A. You could, yeah.<br/>14 Q. Did you do that or did you leave them in<br/>15 your locker?<br/>16 A. No I left them in the locker. I didn't take<br/>17 them home.<br/>18 Q. And the hair net and beard net?<br/>19 A. I threw that away.<br/>20 Q. And I think you said the boots you could<br/>21 wear to and from work?<br/>22 A. Right.<br/>23 Q. Is that what you did?</p> | <p style="text-align: right;">17</p> <p>1 plant, there wasn't nothing there.<br/>2 Q. So there were no metal detectors or<br/>3 turnstiles or anything like that?<br/>4 A. No, sir.<br/>5 Q. Once you got into the parking lot, you could<br/>6 just walk into the plant?<br/>7 A. Right.<br/>8 Q. When you would get into the parking lot and<br/>9 walk into the building, what is the next thing you<br/>10 would do after that?<br/>11 A. I would clock in.<br/>12 Q. And where would you clock in?<br/>13 A. It would be in the break room area.<br/>14 Q. In the debone break room or the evis break<br/>15 room?<br/>16 A. Well, debone break room. I didn't work in<br/>17 the other department.<br/>18 Q. Were you working day shift or night shift?<br/>19 A. Day.<br/>20 Q. And did you work day shift the entire time<br/>21 you were there?<br/>22 A. Yes.<br/>23 Q. What time did your shift normally start?</p>                    |

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| <p style="text-align: right;">18</p> <p>1 A. Seven.</p> <p>2 Q. And did it have a scheduled end time?</p> <p>3 A. At 3:30.</p> <p>4 Q. What time would you normally arrive at the</p> <p>5 plant?</p> <p>6 A. Maybe 6:30.</p> <p>7 Q. And when would you normally clock in?</p> <p>8 A. I would clock in maybe 6:35.</p> <p>9 Q. And then after you would clock in, what</p> <p>10 would you do next?</p> <p>11 A. I would have to get in line to get my PPE</p> <p>12 equipment I needed to start the shift off with.</p> <p>13 Q. What items would you be waiting in line for?</p> <p>14 A. Smock, my beard net, my apron; and that</p> <p>15 would be the main things because I had everything</p> <p>16 else.</p> <p>17 Q. And after you picked up those items, what</p> <p>18 would you do next?</p> <p>19 A. I would enter the work area and have my</p> <p>20 boots sanitized as soon as you hit the door.</p> <p>21 Q. Can you describe for me that process, that</p> <p>22 sanitizing?</p> <p>23 A. Well, once you enter the double doors, the</p>                                 | <p style="text-align: right;">20</p> <p>1 would have go down a piece. And that's when I</p> <p>2 started putting on the other equipment I needed to</p> <p>3 start the shift with.</p> <p>4 Q. Approximately how long would that take you?</p> <p>5 A. I would say 15 minutes. It depends on what</p> <p>6 time I can get in there.</p> <p>7 Q. Can you describe for me what you would do</p> <p>8 during that 15 minutes?</p> <p>9 A. I would -- after I sanitized my boots, I</p> <p>10 would get my earplugs and get my goggles, put my</p> <p>11 smock on, put all my stuff on around my mouth for</p> <p>12 my hair features, put my gloves on, and I'd get</p> <p>13 ready to go to my department in my area. But you</p> <p>14 have to have all that on.</p> <p>15 Q. Would you rinse or wash anything?</p> <p>16 A. No, sir.</p> <p>17 Q. And then after you finished that, you would</p> <p>18 go to your position on the line?</p> <p>19 A. Yes.</p> <p>20 Q. And would you get any breaks during the</p> <p>21 course of the day?</p> <p>22 A. Yes.</p> <p>23 Q. How many breaks would you get?</p>                  |
| <p style="text-align: right;">19</p> <p>1 work area, there's a double door there where it</p> <p>2 has a gun with spray with foam in it. You take</p> <p>3 and push a button and it sanitizes your boots, and</p> <p>4 it dries them too.</p> <p>5 Q. Did you have to push the button every time</p> <p>6 you entered?</p> <p>7 A. Yes.</p> <p>8 Q. You personally did that?</p> <p>9 A. Yes.</p> <p>10 Q. And how did it work? Was it like a washing</p> <p>11 machine or?</p> <p>12 A. It was like a sprayer at a car wash.</p> <p>13 Q. What did it do?</p> <p>14 A. It put out a lot of foam, and I reckon it</p> <p>15 would dry itself. The foam would evaporate. And</p> <p>16 sanitize it like that.</p> <p>17 Q. So did you just have to step into the foam?</p> <p>18 A. No. You have to step in the area where the</p> <p>19 drain is, and you push the button and you spray</p> <p>20 your boots down. And once you hang it up, it goes</p> <p>21 off automatically itself.</p> <p>22 Q. And what would you do next?</p> <p>23 A. I would enter the second two doors, and I</p> | <p style="text-align: right;">21</p> <p>1 A. I would get two 15-minute breaks and a</p> <p>2 30-minute break.</p> <p>3 Q. Do you remember what time those breaks would</p> <p>4 be?</p> <p>5 A. Not exactly. I would say in the morning</p> <p>6 maybe. It would be different times that they took</p> <p>7 different breaks. I would say mine would probably</p> <p>8 start at 9:30 to 9:45.</p> <p>9 Q. So would you have a 15-minute break, then a</p> <p>10 30-minute break, then a 15-minute break?</p> <p>11 A. Yes.</p> <p>12 Q. And would you do the same things before you</p> <p>13 went out on each of those breaks, and then do the</p> <p>14 same things when you returned from each of those</p> <p>15 breaks?</p> <p>16 A. It would depend on what area I was in. Some</p> <p>17 days I might have time to do the same things,</p> <p>18 sometimes I might not.</p> <p>19 Q. Okay. I thought you told me before that you</p> <p>20 worked in packout the entire time you were there?</p> <p>21 A. It's different areas of packout.</p> <p>22 Q. So different positions within the area of</p> <p>23 packout?</p> |

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| <p style="text-align: right;">22</p> <p>1 A. Different positions.</p> <p>2 Q. I understand. Generally, before you would</p> <p>3 leave to go out on break, how would you know it</p> <p>4 was time to take your break?</p> <p>5 A. Well, the supervisor, when I first started,</p> <p>6 they gave us a time for our area we was working</p> <p>7 in. And she told me that I would take break at</p> <p>8 9:30 to 9:45.</p> <p>9 Q. And when it was time for you to go out on</p> <p>10 break, what would you do?</p> <p>11 A. Well, I would have to, if I'm running the</p> <p>12 machine, I'm the operator, I would have to turn</p> <p>13 the machine to make sure nothing was running off.</p> <p>14 And then I have to go to my station where you have</p> <p>15 to take all your stuff off before you go outside.</p> <p>16 And it depends on where I was at, you know.</p> <p>17 Q. Okay. When you say you had to take your</p> <p>18 stuff off, can you describe for me what it is you</p> <p>19 would do?</p> <p>20 A. I would have to take my gloves off, my smock</p> <p>21 off, I would take my beard mask off; and I would</p> <p>22 have to hang it up on the rack, put it in a</p> <p>23 designated place where I could find it when I got</p> | <p style="text-align: right;">24</p> <p>1 Q. Well, this estimate of seven to eight</p> <p>2 minutes, is that for any position within packout?</p> <p>3 A. I would say when I was operator.</p> <p>4 Q. And that's when you were operating the</p> <p>5 machine that drops the chicken into the bags?</p> <p>6 A. Right.</p> <p>7 Q. And that's when you would have to wash off</p> <p>8 your gloves?</p> <p>9 A. Right.</p> <p>10 Q. So there were times when you didn't have to</p> <p>11 wash off your gloves?</p> <p>12 A. Right.</p> <p>13 Q. And did that take less time before you went</p> <p>14 out on break?</p> <p>15 A. Right.</p> <p>16 Q. Because you didn't have to rinse off your</p> <p>17 gloves?</p> <p>18 A. Right.</p> <p>19 Q. And how long would it take on those days?</p> <p>20 A. I'd say maybe five minutes.</p> <p>21 Q. Assuming you were working in the same</p> <p>22 position before each break, would the amount of</p> <p>23 time it would take you to do whatever you needed</p>   |
| <p style="text-align: right;">23</p> <p>1 back. That's mostly what I had to do.</p> <p>2 Q. Did you have to rinse or wash anything off?</p> <p>3 A. No. Depends on if I was in -- if I was</p> <p>4 catching that day, I would have to rinse my blue</p> <p>5 gloves off, because it gets contaminated.</p> <p>6 Q. So some days, before going on break, you</p> <p>7 would have to rinse off your gloves, and then</p> <p>8 other days you wouldn't?</p> <p>9 A. Depending on the department that I was --</p> <p>10 the position I was doing that day.</p> <p>11 Q. Approximately how long would it take you to</p> <p>12 do those tasks before you went out on break?</p> <p>13 A. If I was the operator that day, it would</p> <p>14 take me at least a good seven to eight minutes.</p> <p>15 That's after the break starts.</p> <p>16 Q. And would that be the same for your</p> <p>17 15-minute breaks and your 30-minute breaks?</p> <p>18 A. Yes.</p> <p>19 Q. And the amount of time would be about the</p> <p>20 same?</p> <p>21 A. It would depend what area I was in.</p> <p>22 Sometimes I might be closer to the break room,</p> <p>23 sometimes I might be farther.</p>  | <p style="text-align: right;">25</p> <p>1 to do before you could go out on break be the</p> <p>2 same?</p> <p>3 MR. CAMP: Form. Say that again.</p> <p>4 Q. Assuming you were working in the same</p> <p>5 position before you went out on break, would it</p> <p>6 take you the same amount of time to do these tasks</p> <p>7 that you've told me you did before going out on</p> <p>8 break, any break, regardless whether it was a 15-</p> <p>9 or 30-minute break?</p> <p>10 A. Sometimes it would probably take longer.</p> <p>11 Q. What I'm trying to get at here is whether</p> <p>12 there was something you would do before your</p> <p>13 30-minute break or something different you would</p> <p>14 do before your 15-minute break, so I know if I</p> <p>15 need to ask you questions about that. If it was</p> <p>16 all generally the same, then I don't need to ask</p> <p>17 you what you did before each of those breaks.</p> <p>18 That's all I'm trying to understand. I'm not</p> <p>19 trying to trick you.</p> <p>20 Would you generally do the same thing before</p> <p>21 leaving for your 15-minute break, your 30-minute</p> <p>22 break, and your second 15-minute break?</p> <p>23 A. Yes.</p> |

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| <p style="text-align: right;">26</p> <p>1 Q. Okay. Now, when you would return from<br/>2 break, how would you know it was time to go back<br/>3 out onto the floor?<br/>4 A. Well, since I didn't wear a watch, I was<br/>5 always around somebody that had a watch. I could<br/>6 check the time, you know. Or I could walk inside<br/>7 the building and look at the clock.<br/>8 Q. Would you normally go outside for your<br/>9 break?<br/>10 A. I'd normally go outside and smoke.<br/>11 Q. Were there any items that you could keep on<br/>12 when you left the production floor to go out on<br/>13 break?<br/>14 A. I could keep my smock on.<br/>15 Q. You could keep your smock on?<br/>16 A. I mean, my hair net.<br/>17 Q. Could you keep your boots on?<br/>18 A. Yeah, I could keep my boots on.<br/>19 Q. And if you went outside could you keep your<br/>20 boots on?<br/>21 A. Yes, sir.<br/>22 Q. And if you went outside could you keep your<br/>23 hair net on?</p> | <p style="text-align: right;">28</p> <p>1 Q. And would you wash or rinse anything?<br/>2 A. Nothing but my boots probably.<br/>3 Q. And approximately how long would it take you<br/>4 to do all of those things, from the time you<br/>5 entered through the production door?<br/>6 A. Maybe, I would say, five to six minutes.<br/>7 Q. And that would be the same when you were<br/>8 returning from each of your breaks?<br/>9 A. Yes.<br/>10 Q. Would it normally take about that same time?<br/>11 A. Right.<br/>12 Q. And you normally would do the same things?<br/>13 A. I normally would do the same things.<br/>14 Q. Did you ever actually time yourself on how<br/>15 long it would take you to do each of those tasks<br/>16 when you were returning from break?<br/>17 A. No, sir.<br/>18 Q. Did you ever actually time yourself on how<br/>19 long you were taking to do each of those tasks<br/>20 when you were going out on break?<br/>21 A. No, sir.<br/>22 Q. So you're giving me estimates; is that<br/>23 correct?</p>  |
| <p style="text-align: right;">27</p> <p>1 A. Yes, sir.<br/>2 Q. When it was time for you to go back out onto<br/>3 the production floor, can you tell me what you<br/>4 would do between the time you entered the<br/>5 production area and the time you got back into<br/>6 your spot on the line?<br/>7 A. I don't understand the question.<br/>8 Q. Okay. That's fine. I'll ask it<br/>9 differently.<br/>10 When you were returning from break, you<br/>11 would walk back into the production area, correct?<br/>12 A. Right.<br/>13 Q. And at that time, you were wearing your<br/>14 boots and your hair net?<br/>15 A. Right.<br/>16 Q. After you walked into the production area,<br/>17 what's the first thing you would do?<br/>18 A. I would probably sanitize my boots first.<br/>19 And then I would walk toward where my apron and<br/>20 stuff be at.<br/>21 Q. Okay. And would you put your items of<br/>22 clothing or equipment back on?<br/>23 A. Yes.</p>           | <p style="text-align: right;">29</p> <p>1 A. Yes.<br/>2 Q. When it was the end of your shift, how would<br/>3 you know that your shift was done? Did you have a<br/>4 scheduled end time?<br/>5 A. They had a buzzer for the end of the shift<br/>6 that would go off.<br/>7 Q. And when would you be able to leave?<br/>8 A. I would be able to leave -- well, my<br/>9 scheduled time was at 3:30 to leave.<br/>10 Q. Could you leave at 3:30? Could you leave<br/>11 your spot on the line at 3:30?<br/>12 A. Sometimes I could; sometimes I couldn't.<br/>13 Q. What would happen when there were times when<br/>14 you couldn't leave the line?<br/>15 A. When I was operating the machine.<br/>16 Q. Why would you have to wait?<br/>17 A. Because I would have to wait for somebody to<br/>18 come in on second shift to be on my space. If he<br/>19 was there, I wouldn't have to shut it down; but if<br/>20 he's not there, I would have to wait until he'd<br/>21 get there or shut the machine down.<br/>22 Q. I understand. Did you ever --<br/>23 MR. GOULD: Strike that.</p> |

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| <p style="text-align: right;">30</p> <p>1 Q. Do you know, if you had to stay past 3:30,<br/>2 whether you were paid for that time?<br/>3 A. I never was scheduled to work past 3:30.<br/>4 Q. Right. But I think you told me there were<br/>5 times when you had to stay past 3:30?<br/>6 A. Right.<br/>7 Q. Do you know whether you were paid for that<br/>8 time?<br/>9 A. I don't think I was paid for it.<br/>10 Q. Did you ever check your paycheck to see<br/>11 whether you had been paid for any extra time?<br/>12 A. Yes.<br/>13 Q. Did you check to see?<br/>14 A. I noticed there wasn't anything over 40<br/>15 hours.<br/>16 Q. Did you ever talk to a supervisor or<br/>17 somebody in payroll?<br/>18 A. I mentioned it to a couple people, and they<br/>19 felt the same way I did.<br/>20 Q. When you say you mentioned it to a couple<br/>21 people, was it a supervisor or someone in payroll,<br/>22 or was it just another employee?<br/>23 A. Just another employee.</p>                          | <p style="text-align: right;">32</p> <p>1 Q. And then after you would exit the production<br/>2 floor, what would you do next?<br/>3 A. I would have to go to the break area where<br/>4 you clock out at, and then wait in line.<br/>5 Q. Would you get rid of your smock after you<br/>6 exited the production area?<br/>7 A. Right. The basket be across from you before<br/>8 you go in the break area.<br/>9 Q. So it's on your way from the production area<br/>10 to the break room?<br/>11 A. Right. You just drop it in the basket.<br/>12 Q. And then after you clocked out, would you<br/>13 normally leave?<br/>14 A. Yes.<br/>15 Q. Now, you indicated that there were times you<br/>16 believe you should have been paid that you stayed<br/>17 past 3:30; is that correct?<br/>18 A. Yes.<br/>19 Q. Is that part of what you are seeking in this<br/>20 lawsuit?<br/>21 A. Yes, sir.<br/>22 Q. Did you keep any record or documentation of<br/>23 the times that you believe you stayed late on the</p> |
| <p style="text-align: right;">31</p> <p>1 Q. My question to you was whether you ever<br/>2 discussed this with a supervisor or someone in<br/>3 payroll, someone at a management level.<br/>4 A. No, sir.<br/>5 Q. Now, at the end of the shift when you were<br/>6 leaving your spot in the packout area, can you<br/>7 describe for me what you would do before you<br/>8 exited the production floor?<br/>9 A. I would have to take off my aprons and my<br/>10 masks. And at that time, I could take my earplugs<br/>11 off. And I would exit and go to the car.<br/>12 Q. Now, you said you would take off your mask?<br/>13 A. For my facial hair.<br/>14 Q. Your beard net?<br/>15 A. Yes.<br/>16 Q. And how long do you estimate it would take<br/>17 you to do all of those things?<br/>18 A. About five, six minutes.<br/>19 Q. Did you ever actually time yourself doing<br/>20 those activities at the end of your shift?<br/>21 A. No, sir.<br/>22 Q. So that would be an estimate?<br/>23 A. Yes, sir.</p> | <p style="text-align: right;">33</p> <p>1 line and weren't paid for that time?<br/>2 A. No, sir.<br/>3 Q. Do you have any estimate of how often that<br/>4 happened?<br/>5 A. I would say maybe twice a week.<br/>6 Q. And you were there for 90 days; roughly<br/>7 three months, correct?<br/>8 A. Right.<br/>9 Q. And on average, how long do you estimate<br/>10 that you stayed on the line after 3:30?<br/>11 A. I would say five to six minutes. Because<br/>12 after five minutes, I'm going to shut it down<br/>13 anyway if he don't be there to take my place.<br/>14 Q. So after five or six minutes, if you weren't<br/>15 relieved, you would turn the machine off?<br/>16 A. Right.<br/>17 Q. Would you have to ask your supervisor if you<br/>18 could do that?<br/>19 A. No, sir.<br/>20 Q. You would just do it?<br/>21 A. Well, I had permission to do it.<br/>22 Q. I understand. So your supervisor had told<br/>23 you previously that if you weren't relieved in</p>                            |



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| <p style="text-align: right;">34</p> <p>1 five to six minutes --</p> <p>2 A. Shut it down.</p> <p>3 Q. -- just to shut it down. Okay. I</p> <p>4 understand. What's your understanding as to the</p> <p>5 time for which you were actually paid? Do you</p> <p>6 have an understanding how the company calculated</p> <p>7 the hours for which you were paid?</p> <p>8 A. No. I don't know who handled payroll. I</p> <p>9 don't know that.</p> <p>10 Q. You got paid weekly while you were working</p> <p>11 there, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Was there any difference between the hours</p> <p>14 for which you were paid each week, or were you</p> <p>15 paid for the exact same number of hours each week?</p> <p>16 A. The exact same.</p> <p>17 Q. And how many were there?</p> <p>18 A. Forty.</p> <p>19 Q. So you were paid 40 hours each week, unless</p> <p>20 you worked on the weekend?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Were there ever any times you were asked to</p> <p>23 stay late?</p>          | <p style="text-align: right;">36</p> <p>1 Q. Did you have to do that every time before</p> <p>2 you went into production?</p> <p>3 A. I did.</p> <p>4 Q. Did you do that when you came back from your</p> <p>5 breaks to go into production?</p> <p>6 A. Yes.</p> <p>7 Q. The 15-minute break, the 30, and the</p> <p>8 15-minute break?</p> <p>9 A. Yes, sir.</p> <p>10 Q. The last thing you did before clocking out</p> <p>11 at the end of the day was deposit your smock in a</p> <p>12 combo of some sort?</p> <p>13 A. Yes.</p> <p>14 Q. Could you wear your smocks outside?</p> <p>15 A. No, sir.</p> <p>16 Q. You said that you had permission to shut</p> <p>17 down your machine if your replacement wasn't there</p> <p>18 within five minutes after 3:30?</p> <p>19 A. Yes.</p> <p>20 Q. How did you get that permission?</p> <p>21 A. From my supervisor.</p> <p>22 Q. So he knew you were staying after?</p> <p>23 A. Yes.</p> |
| <p style="text-align: right;">35</p> <p>1 A. No, sir.</p> <p>2 Q. I think those are all the questions I have</p> <p>3 for you. Thank you very much for your time.</p> <p>4 MR. CAMP: I've got a few questions.</p> <p>5 BY MR. CAMP:</p> <p>6 Q. You said you sanitized your boots before</p> <p>7 you'd go into production?</p> <p>8 A. Yes, sir.</p> <p>9 Q. You walked through the door?</p> <p>10 A. Yes.</p> <p>11 Q. You pushed a button. You indicated -- I was</p> <p>12 watching you as you described what you did. You</p> <p>13 kind of indicated that you would spray your boots</p> <p>14 down. Did I misinterpret that? How did you get</p> <p>15 the foam on your boots?</p> <p>16 A. It was like what you use at a car wash.</p> <p>17 Q. Like a pressure washer?</p> <p>18 A. Yes, something like that.</p> <p>19 Q. So you would grab a hose with a nozzle on</p> <p>20 it, push the button --</p> <p>21 A. And the foam would come out.</p> <p>22 Q. And then you could go into production?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">37</p> <p>1 Q. And you're claiming -- in this lawsuit, is</p> <p>2 your claim that you expect to be paid for all</p> <p>3 hours that you worked?</p> <p>4 A. Yes, sir.</p> <p>5 Q. That will be it.</p> <p>6 MR. GOULD: I have nothing else. Thank</p> <p>7 you.</p> <p>8</p> <p>9 (The deposition was concluded.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |

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## 1 CERTIFICATE

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3 STATE OF ALABAMA

4 BARBOUR COUNTY

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6 I hereby certify that the above and  
7 foregoing deposition was taken down by me in  
8 stenotype and the questions and answers thereto  
9 were transcribed by means of computer-aided  
10 transcription, and that the foregoing represents  
11 a true and correct transcript of the testimony  
12 given by said witness upon said hearing.

13 I further certify that I am neither of  
14 counsel, nor kin to the parties to the action,  
15 nor am I in anywise interested in the result of  
16 said cause.

17

18

19 CYNTHIA M. NOAKES, Commissioner  
20 Certified Court Reporter,  
21 ACCR #327 - Expires 09/30/2008

22

23 Commission Expires 07/08/2009

**TAB 22**



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,

Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,

Defendant.

\* \* \* \* \*

DEPOSITION OF TERRANCE JACKSON,  
taken pursuant to notice and  
stipulation on behalf of the Defendant,  
at Williams, Pothoff, Williams & Smith,  
125 South Orange Avenue, Eufaula,  
Alabama, before Bridgette Mitchell,  
Shorthand Reporter and Notary Public in  
and for the State of Alabama at Large,  
on May 21, 2008, commencing at  
5:50 p.m.

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| <p>2</p> <p>1</p> <p>2 APPEARANCES</p> <p>3</p> <p>4</p> <p>5 FOR THE PLAINTIFFS:</p> <p>6 Carl E. Underwood, III, Esquire</p> <p>7 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>8 163 W. Main Street</p> <p>9 Dothan, Alabama 36301</p> <p>10</p> <p>11</p> <p>12 FOR THE DEFENDANT:</p> <p>13 Gary D. Fry, Esquire</p> <p>14 PELINO &amp; LENTZ</p> <p>15 One Liberty Place</p> <p>16 Thirty-second Floor</p> <p>17 Philadelphia, Pennsylvania 19103</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p>4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 TERRANCE JACKSON is hereby waived and</p> <p>6 that said deposition may be introduced</p> <p>7 at the trial of this case or used in</p> <p>8 any other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p>3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of TERRANCE JACKSON is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p>5</p> <p>1 TERRANCE JACKSON, having first</p> <p>2 been duly sworn or affirmed to speak</p> <p>3 the truth, the whole truth, and nothing</p> <p>4 but the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Mr. Jackson, I've already introduced</p> <p>8 myself to you. I'm Gary Fry. I'm one</p> <p>9 of the lawyers for Equity Group</p> <p>10 Eufaula, the folks that operate the</p> <p>11 plant over in Baker Hill. And we've</p> <p>12 asked you here today to put certain</p> <p>13 questions to you with respect to a</p> <p>14 lawsuit which you and some other folks</p> <p>15 have brought against the company.</p> <p>16 A. Yes.</p> <p>17 Q. Have you ever been in a deposition</p> <p>18 before?</p> <p>19 A. No, sir.</p> <p>20 Q. Okay. The procedure is very simple. I</p> <p>21 ask the questions and you supply the</p> <p>22 answers and Bridgette, our court</p> <p>23 reporter, will take down what we both</p> |

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|---|--|
| <p>6</p> <p>1 say. If at any time you don't</p> <p>2 understand one of my questions, it's</p> <p>3 important that you let me know that so</p> <p>4 I can try and rephrase it so you will</p> <p>5 understand it. Okay?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And the same goes for if you don't hear</p> <p>8 something or don't think you hear</p> <p>9 something that I'm saying. Let me know</p> <p>10 and I'll repeat it and hopefully you'll</p> <p>11 understand it then. Okay?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And in order that she can get down a</p> <p>14 record, she can't take what we're</p> <p>15 saying down if we're talking at the</p> <p>16 same time. She can't take it down. So</p> <p>17 if you wait until I get my question</p> <p>18 done before answering and I'll wait</p> <p>19 until your answer is finished before I</p> <p>20 go to the next question, we can have a</p> <p>21 pretty much clear record. Okay?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And the last thing is, whatever answer</p> | <p>8</p> <p>1 Q. So am I correct that when you first</p> <p>2 started there, the plant was operated</p> <p>3 by CP?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And sometime in '04 Equity took it</p> <p>6 over, correct?</p> <p>7 A. I don't know.</p> <p>8 Q. You don't recollect?</p> <p>9 A. No. I don't know.</p> <p>10 Q. But when you finished your employment</p> <p>11 there, Equity was running the place?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And for what reason did your employment</p> <p>14 at that plant end?</p> <p>15 A. I found another job.</p> <p>16 Q. When you first started to work for CP,</p> <p>17 what job were you doing?</p> <p>18 A. Debone.</p> <p>19 Q. Did you continue doing debone?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did you -- for the whole time you</p> <p>22 worked at that facility, were you in</p> <p>23 the debone department?</p> |
| <p>7</p> <p>1 you give, it's got to be verbal. You</p> <p>2 can't shake your head or nod or</p> <p>3 gesture. Okay?</p> <p>4 A. Yes, sir.</p> <p>5 Q. All right. What's your home address?</p> <p>6 A. P.O. Box 41, Midway, Alabama.</p> <p>7 Q. What's your date of birth?</p> <p>8 A. May the 29th, 1980.</p> <p>9 Q. Are you currently employed?</p> <p>10 A. Yes, sir.</p> <p>11 Q. By whom?</p> <p>12 A. Halla Climate Systems in Shorter,</p> <p>13 Alabama.</p> <p>14 Q. Did you say Holland?</p> <p>15 A. Halla.</p> <p>16 Q. Halla. How do you spell that?</p> <p>17 A. H-A-L-L-A.</p> <p>18 Q. At some point in time you did work for</p> <p>19 the Equity plant?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And what period of time did you work</p> <p>22 for that facility?</p> <p>23 A. January of '04 to July '05.</p>  | <p>9</p> <p>1 A. Yes, sir.</p> <p>2 Q. What shift?</p> <p>3 A. First shift, morning shift.</p> <p>4 Q. What were your hours?</p> <p>5 A. Seven-thirty to three.</p> <p>6 Q. What did you do in the debone</p> <p>7 department?</p> <p>8 A. I was a shoulder cutter, a skin puller,</p> <p>9 a bone inspector.</p> <p>10 Q. So you had a variety of jobs?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Did you rotate on the line?</p> <p>13 A. Yes, sir.</p> <p>14 Q. So you did shoulder cutting and the</p> <p>15 other jobs that you mentioned in the</p> <p>16 rotation?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And was it typical that you would</p> <p>19 rotate through these positions during</p> <p>20 each day?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Do you recall who your supervisors were</p> <p>23 when you were working there?</p>                                     |

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| <p style="text-align: right;">10</p> <p>1 A. No, sir. I forgot their name.</p> <p>2 Q. Okay. What was your rate of pay?</p> <p>3 A. It's been so long ago, I forgot, sir.</p> <p>4 Q. Okay. How many hours per day did you</p> <p>5 work?</p> <p>6 A. Really don't know.</p> <p>7 Q. How many days a week did you work?</p> <p>8 A. Five.</p> <p>9 Q. Five? Monday through Friday?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did you perform any other jobs at that</p> <p>12 plant during the year and a half you</p> <p>13 worked there?</p> <p>14 A. No, sir.</p> <p>15 Q. Were you a member of the union while</p> <p>16 you were there?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Did you hold any positions with the</p> <p>19 union?</p> <p>20 A. No, sir.</p> <p>21 Q. Were you ever a member of the union's</p> <p>22 negotiating committee?</p> <p>23 A. No, sir.</p>                                      | <p style="text-align: right;">12</p> <p>1 claim against Equity; correct?</p> <p>2 A. Yes.</p> <p>3 Q. And what's the basis of your claim?</p> <p>4 A. I don't understand, sir.</p> <p>5 Q. Do you have any idea what you're making</p> <p>6 a claim for?</p> <p>7 A. Yes, sir.</p> <p>8 Q. What?</p> <p>9 A. Lost wages.</p> <p>10 Q. And what work did you perform for which</p> <p>11 you weren't paid that you're seeking</p> <p>12 wages?</p> <p>13 A. Sir? Can you repeat that, sir?</p> <p>14 Q. Sure. Your claim is for lost wages.</p> <p>15 I'm trying to get a handle on what your</p> <p>16 claim is. I assume that you're -- you</p> <p>17 believe that you performed work for</p> <p>18 which you weren't paid?</p> <p>19 A. Yes.</p> <p>20 Q. And what work did you perform for which</p> <p>21 you weren't paid?</p> <p>22 A. My breaks.</p> <p>23 Q. Your breaks. What about your breaks?</p>             |
| <p style="text-align: right;">11</p> <p>1 Q. Did you ever attend any union meetings?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you ever discuss with your fellow</p> <p>4 employees the claims that you're</p> <p>5 bringing here?</p> <p>6 A. No, sir.</p> <p>7 Q. How did you find out about this</p> <p>8 lawsuit?</p> <p>9 A. A friend.</p> <p>10 Q. And what did your friend tell you?</p> <p>11 A. The guy told me to get -- he gave me a</p> <p>12 number and told me to give them a call</p> <p>13 and then it went from there.</p> <p>14 Q. And what was the number that he gave</p> <p>15 you?</p> <p>16 A. I don't remember, sir.</p> <p>17 Q. Was it the lawyers?</p> <p>18 A. Yes.</p> <p>19 Q. What's your understanding of what your</p> <p>20 claim is in this case?</p> <p>21 A. I don't understand. Can you repeat</p> <p>22 that, sir?</p> <p>23 Q. Yeah. You're -- you have brought a</p> | <p style="text-align: right;">13</p> <p>1 A. I believe I wasn't getting my whole</p> <p>2 thirty minutes, sir.</p> <p>3 Q. Okay. Anything else?</p> <p>4 A. That would be all, sir.</p> <p>5 Q. Pardon?</p> <p>6 A. No, sir.</p> <p>7 Q. Did you review any documents in</p> <p>8 preparing to come here today?</p> <p>9 A. No, sir.</p> <p>10 Q. Did you speak with anybody about your</p> <p>11 deposition except your lawyer?</p> <p>12 A. No, sir.</p> <p>13 Q. Can you identify for me the items of</p> <p>14 clothing or gear that you wore when you</p> <p>15 were working on the debone line?</p> <p>16 A. Yes, sir. A smock, apron, rubber</p> <p>17 gloves, cotton gloves, hair net, beard</p> <p>18 net, earplugs, a chain, hand chains,</p> <p>19 and arm guard.</p> <p>20 Q. I'm sorry. After the beard net, you --</p> <p>21 chains?</p> <p>22 A. Chain glove.</p> <p>23 Q. Chain glove. And what else?</p> |

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| <p style="text-align: right;">14</p> <p>1 A. You got the earplugs?</p> <p>2 Q. Earplugs. Anything else?</p> <p>3 A. Can you read --</p> <p>4 Q. Sure. Let me read off what you gave</p> <p>5 me. Smock, apron, gloves, both white</p> <p>6 and rubber, hair net, beard net, a</p> <p>7 chain glove, and earplugs.</p> <p>8 A. Yeah. And -- and an arm guard.</p> <p>9 Q. Arm guards?</p> <p>10 A. Yeah.</p> <p>11 Q. On both arms?</p> <p>12 A. Just one arm.</p> <p>13 Q. Pardon?</p> <p>14 A. Just one arm.</p> <p>15 Q. Just one arm. Did you wear plastic</p> <p>16 sleeves?</p> <p>17 A. Yes, sir. Yes, the little plastic</p> <p>18 sleeves. I forgot about them.</p> <p>19 Q. Anything else?</p> <p>20 A. No, sir.</p> <p>21 Q. Which of these items were you required</p> <p>22 to wear?</p> <p>23 A. All of them.</p>  | <p style="text-align: right;">16</p> <p>1 it was different things I would go get</p> <p>2 every day.</p> <p>3 Q. And do you recall what they were?</p> <p>4 A. No, sir.</p> <p>5 Q. Which of these items that you've</p> <p>6 identified for me could you wear from</p> <p>7 your home?</p> <p>8 A. None of it, really.</p> <p>9 Q. Pardon?</p> <p>10 A. None of it, really.</p> <p>11 Q. What about your boots?</p> <p>12 A. Oh, yes. I forgot about them. Oh, no,</p> <p>13 I couldn't wear the boots from home</p> <p>14 because they -- as my understanding</p> <p>15 was, you had to leave them at the job.</p> <p>16 Q. The boots?</p> <p>17 A. Yes, sir.</p> <p>18 Q. That was your understanding?</p> <p>19 A. Yes.</p> <p>20 Q. Did you have a locker at the plant?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And what did you use the locker for?</p> <p>23 A. For my boots.</p> |
| <p style="text-align: right;">15</p> <p>1 Q. And how did you come to that</p> <p>2 understanding?</p> <p>3 A. I got wrote up for an arm guard, and</p> <p>4 when I went in the office, they told me</p> <p>5 I must wear all -- all that equipment.</p> <p>6 Q. Was it your understanding that you</p> <p>7 would be written up if you didn't wear</p> <p>8 the plastic sleeves?</p> <p>9 A. No, sir. No, sir.</p> <p>10 Q. What?</p> <p>11 A. The only thing they told me I have to</p> <p>12 wear was my equipment.</p> <p>13 Q. Okay. From what you were able to</p> <p>14 observe in the debone room, did the</p> <p>15 other employees in there wear all this</p> <p>16 stuff?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Which of these items was issued to you</p> <p>19 by the company, either CP or Equity?</p> <p>20 A. All of it.</p> <p>21 Q. All of it? Which of these items did</p> <p>22 you pick up on a daily basis?</p> <p>23 A. I really can't tell you, sir, because</p> | <p style="text-align: right;">17</p> <p>1 Q. Anything else?</p> <p>2 A. No, sir.</p> <p>3 Q. Where did you keep the plastic arm</p> <p>4 guard?</p> <p>5 A. I carried that home.</p> <p>6 Q. Took it home?</p> <p>7 A. Yeah.</p> <p>8 Q. What about your apron?</p> <p>9 A. Carried it home.</p> <p>10 Q. And the plastic sleeves?</p> <p>11 A. Carried it home.</p> <p>12 Q. And were you permitted to keep them in</p> <p>13 your locker if you wished?</p> <p>14 A. I don't -- I don't know.</p> <p>15 Q. Did you ever see that other employees</p> <p>16 kept those items in their lockers?</p> <p>17 A. I really don't recall, sir.</p> <p>18 Q. Do you recollect there being any</p> <p>19 differences in the way you did your job</p> <p>20 in any fashion after Equity took over</p> <p>21 from CP?</p> <p>22 A. I really don't understand your</p> <p>23 question.</p>      |

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| <p style="text-align: right;">18</p> <p>1 Q. Okay. At some point CP left and Equity</p> <p>2 took over the plant. Did the manner in</p> <p>3 which you performed your job change in</p> <p>4 any way when that happened?</p> <p>5 A. I don't remember.</p> <p>6 Q. When you reported for work in the</p> <p>7 morning, where did you put your smock</p> <p>8 on?</p> <p>9 A. On the inside. On the inside of the</p> <p>10 debone.</p> <p>11 Q. In the production room?</p> <p>12 A. In the production room.</p> <p>13 Q. Where did you put on your plastic</p> <p>14 apron?</p> <p>15 A. In the production room.</p> <p>16 Q. Where did you put on the plastic</p> <p>17 sleeves?</p> <p>18 A. In the production room.</p> <p>19 Q. And the plastic arm guards?</p> <p>20 A. Production room.</p> <p>21 Q. And your cotton and rubber gloves?</p> <p>22 A. Production room.</p> <p>23 Q. And the -- am I correct that the boots,</p>   | <p style="text-align: right;">20</p> <p>1 A. Yes, sir.</p> <p>2 Q. And did you use scissors?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And how did you obtain these items each</p> <p>5 day?</p> <p>6 A. I don't understand your question, sir.</p> <p>7 Q. Let me -- am I correct that the</p> <p>8 supervisor gave you -- the line leader</p> <p>9 gave you the knives you needed and the</p> <p>10 scissors you needed?</p> <p>11 A. Yes, sir.</p> <p>12 Q. You didn't have to go anywhere to pick</p> <p>13 them up?</p> <p>14 A. No, sir.</p> <p>15 Q. And you didn't have to sharpen them?</p> <p>16 A. No, sir.</p> <p>17 Q. And you didn't have to maintain them in</p> <p>18 any way?</p> <p>19 A. No, sir.</p> <p>20 Q. Did you use any other tools or</p> <p>21 equipment while you were working in the</p> <p>22 debone department?</p> <p>23 A. No, sir.</p>   |
| <p style="text-align: right;">19</p> <p>1 the hair net and the beard net and</p> <p>2 earplugs you were permitted to put on</p> <p>3 before you entered the production room?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And those items that you put on in the</p> <p>6 production room you were not permitted</p> <p>7 to wear outside of the production room;</p> <p>8 is that correct?</p> <p>9 A. Repeat that question again.</p> <p>10 Q. Sure. Those things that you put on in</p> <p>11 the debone production room, you weren't</p> <p>12 allowed to wear those outside that</p> <p>13 room, were you?</p> <p>14 A. No, sir.</p> <p>15 Q. So am I correct in assuming that you</p> <p>16 only put the smock, the apron, the</p> <p>17 gloves and those items on -- you only</p> <p>18 put those on after you entered the</p> <p>19 production room?</p> <p>20 A. Yes, sir.</p> <p>21 Q. At the start of the shift?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Now, you used a knife?</p> | <p style="text-align: right;">21</p> <p>1 Q. Now, you testified that your shift</p> <p>2 started at 7:30 a.m.?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And were you required to be on the</p> <p>5 production line at 7:30 a.m.?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And you were required to be fully</p> <p>8 clothed to perform your job at</p> <p>9 7:30 a.m.?</p> <p>10 A. Yes, sir.</p> <p>11 Q. How many breaks did you get during the</p> <p>12 day?</p> <p>13 A. Two.</p> <p>14 Q. How long was each break?</p> <p>15 A. I really couldn't tell you about my</p> <p>16 breaks because I really don't know.</p> <p>17 Q. Do you recall how long they were</p> <p>18 supposed to be?</p> <p>19 A. Thirty minutes.</p> <p>20 Q. Thirty minutes. And I take it from</p> <p>21 what you're suggesting, that your</p> <p>22 breaks -- your experience was your</p> <p>23 breaks were less than thirty minutes?</p> |



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| <p style="text-align: right;">22</p> <p>1 A. Yes, sir.</p> <p>2 Q. And how much time did you have to spend</p> <p>3 in the break room?</p> <p>4 A. Twenty minutes.</p> <p>5 Q. Twenty minutes. Where did you take</p> <p>6 your break?</p> <p>7 A. In the break room.</p> <p>8 Q. The debone break room?</p> <p>9 A. They have, like, this -- two break</p> <p>10 rooms, so I don't know. The debone or</p> <p>11 evis break room.</p> <p>12 Q. Did you have the option to go to either</p> <p>13 one?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And which break room did you normally</p> <p>16 go to?</p> <p>17 A. Right across from the debone.</p> <p>18 Q. So you went to the debone break room?</p> <p>19 A. Yes.</p> <p>20 Q. Which is right across the hall from the</p> <p>21 production area; correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. How did you know it was time to go on</p>   | <p style="text-align: right;">24</p> <p>1 time.</p> <p>2 MR. FRY: From the break at the</p> <p>3 same time.</p> <p>4 MR. UNDERWOOD: From break at</p> <p>5 the same time.</p> <p>6 A. I really don't know.</p> <p>7 Q. Did some people, depending on where</p> <p>8 they were in the line, did they go to</p> <p>9 -- return from break sooner than those</p> <p>10 at the end of the line?</p> <p>11 A. I don't know.</p> <p>12 Q. Well, on the days that you recall going</p> <p>13 back from break, were there days when</p> <p>14 you were one of the first ones there?</p> <p>15 A. No, sir.</p> <p>16 Q. Were there days when you were one of</p> <p>17 the last ones to go back to the line?</p> <p>18 A. Uh-uh. No, sir.</p> <p>19 Q. You were always in the middle? You</p> <p>20 don't remember?</p> <p>21 A. No, I don't remember that.</p> <p>22 Q. How did you get to the plant? Did you</p> <p>23 drive?</p> |
| <p style="text-align: right;">23</p> <p>1 break?</p> <p>2 A. The line leader called break.</p> <p>3 Q. But you weren't permitted to actually</p> <p>4 go -- leave the line until the last</p> <p>5 bird passed your position; right?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And if you were at the beginning of the</p> <p>8 line, you could leave before the people</p> <p>9 at the end of the line; correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. So some people in your department,</p> <p>12 depending where they were in the line,</p> <p>13 started their break before others?</p> <p>14 A. Yes, sir.</p> <p>15 Q. How did you know that the break time</p> <p>16 has ended?</p> <p>17 A. I look at the clock.</p> <p>18 Q. You look at the clock?</p> <p>19 A. Yeah.</p> <p>20 Q. Did everybody go back to break at the</p> <p>21 same time?</p> <p>22 MR. UNDERWOOD: You said did</p> <p>23 everybody go back to break at the same</p> | <p style="text-align: right;">25</p> <p>1 A. Yes, sir.</p> <p>2 Q. And what time would you typically</p> <p>3 arrive at the plant?</p> <p>4 A. I don't know, sir.</p> <p>5 Q. How many -- your shift started at 7:30?</p> <p>6 A. Yes, sir.</p> <p>7 Q. How many minutes before that shift</p> <p>8 started would you try and be at the</p> <p>9 plant?</p> <p>10 A. At least twenty.</p> <p>11 Q. Did you have to clear any security to</p> <p>12 get into the plant?</p> <p>13 A. Yes, sir.</p> <p>14 Q. What did you do?</p> <p>15 A. I had to drive -- they had the little</p> <p>16 guard shack and they have, like, I.D.</p> <p>17 badges in the car.</p> <p>18 Q. Did you have to stop at the guard</p> <p>19 shack?</p> <p>20 A. Some days.</p> <p>21 Q. Did you have a sticker for your car?</p> <p>22 A. Yes, sir.</p> <p>23 Q. If you had a sticker on the car, could</p>                                       |

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| <p style="text-align: right;">26</p> <p>1 you just drive through?</p> <p>2 A. Like I said, some days, because some</p> <p>3 vehicles -- some vehicles don't have it</p> <p>4 so the line be stopped.</p> <p>5 Q. Okay. But on those days, if they</p> <p>6 didn't stop anybody in front of you,</p> <p>7 you could just drive right on?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Were you ever personally searched?</p> <p>10 A. No, sir.</p> <p>11 Q. Were you -- at any time, were your</p> <p>12 personal possessions searched?</p> <p>13 A. No, sir.</p> <p>14 Q. When you drove out at night, did you</p> <p>15 have to clear security in any way?</p> <p>16 A. No, sir.</p> <p>17 Q. Were you required to go and obtain any</p> <p>18 special tools for the work that you did</p> <p>19 on the debone line?</p> <p>20 A. No, sir.</p> <p>21 Q. You wore a chain mesh glove?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And how was that provided to you?</p> | <p style="text-align: right;">28</p> <p>1 Q. How many days during the week would you</p> <p>2 have to go there?</p> <p>3 A. I don't remember, sir.</p> <p>4 Q. Wouldn't you have to go there every day</p> <p>5 to pick up a smock?</p> <p>6 A. No, sir.</p> <p>7 Q. Why not?</p> <p>8 A. Because they -- we take our smocks</p> <p>9 home.</p> <p>10 Q. Oh, you took your smocks home?</p> <p>11 A. Yes.</p> <p>12 Q. And what did you do with them at home?</p> <p>13 A. Wash them.</p> <p>14 Q. And was that a requirement that you had</p> <p>15 to do?</p> <p>16 A. They had to be clean, yes, sir.</p> <p>17 Q. And did that -- did you take your smock</p> <p>18 home the whole time you worked at the</p> <p>19 plant?</p> <p>20 A. Yes, sir.</p> <p>21 Q. So there were some days when you did</p> <p>22 not have to go to the supply room?</p> <p>23 A. Yes, sir.</p>  |
| <p style="text-align: right;">27</p> <p>1 A. Through the company. The team leaders</p> <p>2 provided them for us.</p> <p>3 Q. Did the team leaders provide you with</p> <p>4 the mesh glove?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And were you provided with the glove</p> <p>7 while you were at the line?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And did the team leader take it from</p> <p>10 you at the end of the day?</p> <p>11 A. Each time I -- when we went to break.</p> <p>12 Q. He took it from you each time you went</p> <p>13 to break?</p> <p>14 A. Yes, sir.</p> <p>15 Q. You didn't have to clean that?</p> <p>16 A. No, sir.</p> <p>17 Q. After you parked your car and got out</p> <p>18 and you went in the plant, tell me what</p> <p>19 you did.</p> <p>20 A. I don't remember, sir.</p> <p>21 Q. Okay. Let me see if I can refresh your</p> <p>22 memory. Did you go to the supply desk?</p> <p>23 A. Some days.</p>                | <p style="text-align: right;">29</p> <p>1 Q. Okay. On those days when you didn't</p> <p>2 have to go to the supply room, once you</p> <p>3 got up to the door to go in, what did</p> <p>4 you do? Where did you go?</p> <p>5 A. Well, probably go get my boots.</p> <p>6 Q. Where were your boots?</p> <p>7 A. In the lockers.</p> <p>8 Q. Okay. Then what would you do?</p> <p>9 A. Probably go to the debone doors. They</p> <p>10 open up -- because they open up at a</p> <p>11 certain time.</p> <p>12 Q. And what time did the debone doors open</p> <p>13 up?</p> <p>14 A. I don't remember. I can't recall.</p> <p>15 Q. Well, if you got there at seven o'clock</p> <p>16 and your work started at 7:30, you had</p> <p>17 a half hour; correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And if you didn't have to go to the</p> <p>20 supply room, all you had to do is get</p> <p>21 your boots and put your boots on?</p> <p>22 A. Yeah.</p> <p>23 Q. What did you do with the rest of the</p> |



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| <p style="text-align: right;">30</p> <p>1 time?</p> <p>2 A. I really can't answer that question</p> <p>3 because I don't remember, sir.</p> <p>4 Q. Okay. Did you go to the break room?</p> <p>5 A. Yes. The locker was in the break room.</p> <p>6 Q. Okay. Did you hang out in that break</p> <p>7 room?</p> <p>8 A. Not really, sir. I'm going to say no.</p> <p>9 Q. Did you see other people hanging out in</p> <p>10 there?</p> <p>11 A. Yes.</p> <p>12 Q. Did you see people eating in there?</p> <p>13 A. I don't remember.</p> <p>14 Q. Did you see people using the vending</p> <p>15 machines in there?</p> <p>16 A. I don't recall, sir.</p> <p>17 Q. Okay. After you put your shoes on,</p> <p>18 what do you do?</p> <p>19 A. I go outside and wait for the doors --</p> <p>20 because they have two supervisors, I</p> <p>21 guess, sometimes because of the cleanup</p> <p>22 crew. And so if the cleanup crew is</p> <p>23 not really fully -- the line's not</p>  | <p style="text-align: right;">32</p> <p>1 people you worked with?</p> <p>2 A. I don't recall.</p> <p>3 Q. Well, let me ask you this. You tried</p> <p>4 to get there around seven?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Did some people try to get there -- did</p> <p>7 some people, did you observe, arrive</p> <p>8 after seven?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And did you observe some people</p> <p>11 arriving before seven?</p> <p>12 A. I can't observe the people coming</p> <p>13 before seven.</p> <p>14 Q. Well, were there people there when you</p> <p>15 got there?</p> <p>16 A. Yes, sir.</p> <p>17 Q. People that you worked with?</p> <p>18 A. Yes, sir.</p> <p>19 Q. So some people came earlier than you?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And some people came later than you?</p> <p>22 A. Yes, sir.</p> <p>23 Q. If your shift started at 7:30, what</p>  |
| <p style="text-align: right;">31</p> <p>1 clean, so we have to wait until someone</p> <p>2 come in, I guess, from -- I guess you</p> <p>3 can say -- I don't know what you call</p> <p>4 them people, but they have to come in</p> <p>5 and say, okay, this line is clean, so</p> <p>6 it's time to go to work.</p> <p>7 Q. How often did that happen, that the</p> <p>8 room wasn't ready for you?</p> <p>9 A. I can't recall, but I know that</p> <p>10 happened on several occasions.</p> <p>11 Q. On those days when that did not happen,</p> <p>12 when the room was ready for you, what</p> <p>13 did you do after you put your shoes on?</p> <p>14 A. You go hang -- go in the hallway and</p> <p>15 wait, sit on the side and wait until</p> <p>16 they open up the doors.</p> <p>17 Q. You just sat there and waited?</p> <p>18 A. Yes.</p> <p>19 Q. And while you were waiting there, did</p> <p>20 other employees come to work?</p> <p>21 A. Yes, sir.</p> <p>22 Q. So other employees arrived to go to</p> <p>23 work after you got there, is that fair,</p> | <p style="text-align: right;">33</p> <p>1 time do you recall, generally, going</p> <p>2 into the debone production floor?</p> <p>3 A. I can't recall, sir.</p> <p>4 Q. Approximately how many minutes before</p> <p>5 7:30 would you walk into that</p> <p>6 production floor?</p> <p>7 A. About fifteen minutes.</p> <p>8 Q. Fifteen minutes? And as I understand</p> <p>9 it, to get into that production floor,</p> <p>10 you had to go through two sets of</p> <p>11 double doors?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And in the middle was a room where your</p> <p>14 boots were sanitized?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And how were the boots sanitized?</p> <p>17 A. I don't remember, sir. The only thing</p> <p>18 I know, little foam was coming out. I</p> <p>19 don't know whether anybody was</p> <p>20 operating it.</p> <p>21 Q. Did you have to wait in that -- in that</p> <p>22 boot sanitary -- sanitizing room?</p> <p>23 A. I don't -- I don't remember.</p> |

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| <p style="text-align: right;">34</p> <p>1 Q. Once you got into the debone production<br/>2 room floor in the morning, you put on<br/>3 your smock, your apron, and those other<br/>4 items; correct?<br/>5 A. Yes, sir.<br/>6 Q. And how long did that take you?<br/>7 A. Five -- I'd say about five minutes.<br/>8 Q. Five minutes. And then you would go to<br/>9 the line and start to work?<br/>10 A. No. I think they had an exercising<br/>11 program.<br/>12 Q. An exercising program?<br/>13 A. Yes.<br/>14 Q. And what was the exercising program?<br/>15 A. Exercise your -- your hand.<br/>16 Q. Describe for me what you did.<br/>17 A. They had, like, a little -- you did<br/>18 something with your hands and your<br/>19 shoulders and your neck.<br/>20 Q. Show me what they made you do.<br/>21 A. Something like this and rotate your<br/>22 neck (indicating).<br/>23 Q. So they had you do that after you had</p> | <p style="text-align: right;">36</p> <p>1 these exercises?<br/>2 A. Every day, five days a week.<br/>3 Q. Okay. How long did the exercises take<br/>4 each day?<br/>5 A. I don't -- I don't -- I can't recall.<br/>6 Q. Are you claiming money for the time<br/>7 that you were required to do these<br/>8 exercises in this case?<br/>9 A. Can you approximately tell me what are<br/>10 you trying to say?<br/>11 Q. Pardon me?<br/>12 A. Can you repeat that question? I don't<br/>13 understand what you're asking.<br/>14 Q. Sure. Are you claiming in this case<br/>15 that you were not paid for those<br/>16 exercises, for the time it took you to<br/>17 do those exercises?<br/>18 A. Yes, sir.<br/>19 Q. And that's part of your claim in this<br/>20 case?<br/>21 A. Yes, sir.<br/>22 Q. Tell me what you did when it was time<br/>23 for you to go on your break.</p>        |
| <p style="text-align: right;">35</p> <p>1 put on all your stuff?<br/>2 A. Yes, sir.<br/>3 Q. And did you have to do those exercises<br/>4 throughout the whole time you were<br/>5 there?<br/>6 A. No, sir.<br/>7 Q. Those exercises were done when you<br/>8 first started; is that fair to say?<br/>9 A. No, sir. It was, like, in -- I'd say<br/>10 in between. I'd say at least about six<br/>11 or seven months after I started.<br/>12 Q. Okay. At some point during your<br/>13 employment, you -- you had to -- they<br/>14 started this exercise program?<br/>15 A. Yes, sir.<br/>16 Q. And were you required to participate?<br/>17 A. Yes, sir.<br/>18 Q. And how long did it last?<br/>19 A. It would last a while.<br/>20 Q. Pardon?<br/>21 A. Until I left. While I was still<br/>22 working, it was still going.<br/>23 Q. And how long each workday would you do</p>   | <p style="text-align: right;">37</p> <p>1 A. Wait until the last bird get to my --<br/>2 where I'm at. Then I leave, wash up,<br/>3 take all my equipment off except my<br/>4 hair net, beard net, and earplugs.<br/>5 Q. And then hang it up?<br/>6 A. Yes, sir.<br/>7 Q. And then go to the break room?<br/>8 A. Yes.<br/>9 Q. And how long did that process take you?<br/>10 A. Five minutes.<br/>11 Q. From what you were able to observe, did<br/>12 all the employees wash off when they<br/>13 left the debone room when they started<br/>14 the break?<br/>15 A. Well, I'd say yes.<br/>16 Q. Pardon?<br/>17 A. Yes.<br/>18 Q. Let's do the reverse process now. When<br/>19 it was time to go back to work after<br/>20 the break was over, tell me what you<br/>21 had to do.<br/>22 A. Go back -- go back in, put your smock,<br/>23 your apron, your gloves, your sleeves,</p> |

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| <p style="text-align: right;">38</p> <p>1 and your arm guard -- the knife guard.</p> <p>2 Q. Did that take you about the same time?</p> <p>3 A. Yes, because you had to resanitize them</p> <p>4 back all, too.</p> <p>5 Q. Did that process take you about the</p> <p>6 same time it took as you -- as the time</p> <p>7 that it took when you left to go on</p> <p>8 break?</p> <p>9 (No immediate response given.)</p> <p>10 Q. Let me put it this way. You told me it</p> <p>11 took you -- to get off your</p> <p>12 workstation, to wash everything, and</p> <p>13 hang it up and leave, it took you about</p> <p>14 five minutes when you were going on</p> <p>15 break. Did it take about the same</p> <p>16 amount of time when you went back to</p> <p>17 work to put it back on?</p> <p>18 A. Well, can I say this here, sir? From</p> <p>19 what my understanding was, that I'm</p> <p>20 saying that it took at least five</p> <p>21 minutes for me to clean my -- my -- my</p> <p>22 equipment and take them off.</p> <p>23 Q. Right.</p> | <p style="text-align: right;">40</p> <p>1 you worked?</p> <p>2 A. I don't know, sir. I just clock in,</p> <p>3 but I really don't know how they --</p> <p>4 Q. So when you came to work every day, you</p> <p>5 swiped your card in?</p> <p>6 A. Yeah.</p> <p>7 Q. And when you left at night, you swiped</p> <p>8 your card?</p> <p>9 A. Yes.</p> <p>10 Q. Is that the first thing you did when</p> <p>11 you got in the plant in the morning?</p> <p>12 A. No, sir.</p> <p>13 Q. You did other things before you swiped</p> <p>14 in?</p> <p>15 A. Yes, sir.</p> <p>16 Q. When did you swipe in?</p> <p>17 A. When I put my boots on.</p> <p>18 Q. Were you permitted to swipe in any</p> <p>19 earlier?</p> <p>20 A. I don't know, sir. Well, I swiped in</p> <p>21 earlier sometimes.</p> <p>22 Q. And when did you swipe out at the end</p> <p>23 of the day?</p>  |
| <p style="text-align: right;">39</p> <p>1 A. Yeah.</p> <p>2 Q. Now I'm asking you how long -- how much</p> <p>3 time did you take to put the stuff back</p> <p>4 on after break?</p> <p>5 A. Oh, I don't know.</p> <p>6 Q. You don't know?</p> <p>7 A. No.</p> <p>8 Q. And did you have to wash it again?</p> <p>9 A. Yes, sir.</p> <p>10 Q. At the end of the day, what did you do?</p> <p>11 A. Same process, wait until the last bird,</p> <p>12 or whatever you say, leave. Then I go</p> <p>13 clean off my equipment.</p> <p>14 Q. And then you took it off?</p> <p>15 A. Yes, sir. I'd take it off and go</p> <p>16 outside.</p> <p>17 Q. And then just -- just go home?</p> <p>18 A. Yeah. Well, I go and take my boots off</p> <p>19 and put them in my locker.</p> <p>20 Q. And how long did that process take you?</p> <p>21 A. I don't know, sir.</p> <p>22 Q. What was your understanding of how the</p> <p>23 company kept track of the hours that</p>  | <p style="text-align: right;">41</p> <p>1 A. When I leave out of the debone area.</p> <p>2 Q. Did you swipe out before you took your</p> <p>3 boots off?</p> <p>4 A. That's -- repeat the question again.</p> <p>5 Q. Did you swipe out before or after you</p> <p>6 took your boots off?</p> <p>7 A. Before.</p> <p>8 Q. Did you ever have occasion to complain</p> <p>9 to any supervisor about your payroll</p> <p>10 check?</p> <p>11 A. No, sir.</p> <p>12 Q. Did you keep track on a daily basis of</p> <p>13 the hours that you worked there?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you keep any kind of diary or notes</p> <p>16 as to the actual hours that you believe</p> <p>17 that you worked there that -- for which</p> <p>18 you were not paid?</p> <p>19 A. No.</p> <p>20 Q. Have you made any calculations with</p> <p>21 respect to how much you believe you're</p> <p>22 owed in this lawsuit?</p> <p>23 A. No, sir.</p> |

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| <p style="text-align: right;">42</p> <p>1 Q. Were you ever asked to stay and work<br/>2 overtime?<br/>3 A. Yes, sir.<br/>4 Q. And were you paid time and a half for<br/>5 that time?<br/>6 A. I really couldn't tell it on my check,<br/>7 to be honest with you, sir.<br/>8 Q. Did you look?<br/>9 A. Yes. But -- yes. Yes, I was paid --<br/>10 yes, I was paid time and a half.<br/>11 Q. So you never had any complaints about<br/>12 your overtime and how it was computed?<br/>13 A. No, sir.<br/>14 Q. Did you ever file any grievances with<br/>15 the union with respect to any pay<br/>16 issues?<br/>17 A. No, sir.<br/>18 Q. Did you ever file any grievances at all<br/>19 with the union?<br/>20 A. I don't -- I don't recall.<br/>21 Q. Do you know what I'm referring to?<br/>22 A. Yes, sir.<br/>23 Q. Okay. You don't recall filing any</p>                                     | <p style="text-align: right;">44</p> <p>1 A. Being late to the line.<br/>2 Q. And how many times?<br/>3 A. I don't recall, but I have got<br/>4 suspended.<br/>5 Q. You were suspended?<br/>6 A. Yes, sir.<br/>7 Q. How many times?<br/>8 A. One.<br/>9 Q. Once?<br/>10 A. Yeah.<br/>11 Q. Okay. Thank you.<br/>12 MR. FRY: No further questions.<br/>13<br/>14 (The deposition of Terrance Jackson<br/>15 concluded at 5:50 p.m. on May 21,<br/>16 2008.)<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23</p>   |
| <p style="text-align: right;">43</p> <p>1 grievances?<br/>2 A. No, sir.<br/>3 Q. Did you ever otherwise complain to<br/>4 anybody with respect to any pay issues?<br/>5 A. No, sir.<br/>6 Q. Before this lawsuit, I mean.<br/>7 A. No, sir.<br/>8 Q. And I take it you've never filed any<br/>9 claims with the department of labor or<br/>10 any other government agency with<br/>11 respect to any pay issues?<br/>12 A. I don't understand your question.<br/>13 Q. You never made any other -- besides the<br/>14 claim that you're making here in this<br/>15 case, have you ever filed any other<br/>16 claims with the government with respect<br/>17 to the issues that you're raising here?<br/>18 A. No, sir.<br/>19 Q. When you were working at the Baker Hill<br/>20 facility, either for CP or Equity, were<br/>21 you ever disciplined?<br/>22 A. Yes, sir.<br/>23 Q. What for?</p> | <p style="text-align: right;">45</p> <p>1 * * * * *<br/>2 REPORTER'S CERTIFICATE<br/>3 * * * * *<br/>4 STATE OF ALABAMA<br/>5 COUNTY OF MONTGOMERY<br/>6 I do hereby certify that the above<br/>7 and foregoing transcript was taken down<br/>8 by me in stenotype, and the questions<br/>9 and answers thereto were transcribed by<br/>10 means of computer-aided transcription,<br/>11 and that the foregoing represents a<br/>12 true and correct transcript of the<br/>13 testimony given by said witness.<br/>14 I further certify that I am neither<br/>15 of counsel, nor any relation to the<br/>16 parties to the action, nor am I anywise<br/>17 interested in the result of said case.<br/>18<br/>19<br/>20<br/>21 Bridgette W. Mitchell,<br/>22 Certified Court Reporter and<br/>23 Commissioner for the State of<br/>Alabama at Large<br/>ACCR No. 231 - Expires 9/30/08<br/>MY COMMISSION EXPIRES 1/25/2010</p> |

**TAB 23**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner

and Certified Court Reporter

DEPOSITION TESTIMONY OF

ANNIE R. JOHNSON

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of ANNIE R. JOHNSON</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 21st day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-40</p> <p>4   MR. UNDERWOOD           40</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   (No exhibits were submitted</p> <p>8   to said deposition.)</p> <p>9</p> <p>10   Reporter's Certificate         41</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19   *****</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. CARL E. UNDERWOOD, III</p> <p>5       THE COCHRAN FIRM, P.C.</p> <p>6       ATTORNEYS AT LAW</p> <p>7       163 West Main Street</p> <p>8       Dothan, Alabama 36301</p> <p>9       (334) 793-1555</p> <p>10</p> <p>11   ON BEHALF OF THE DEFENDANT:</p> <p>12       MR. MALCOLM S. GOULD</p> <p>13       PELINO &amp; LENTZ</p> <p>14       ATTORNEYS AT LAW</p> <p>15       One Liberty Place</p> <p>16       Thirty-Second Floor</p> <p>17       1650 Market Street</p> <p>18       Philadelphia, Pennsylvania 19103</p> <p>19       (215) 665-1540</p> <p>20</p> <p>21</p> <p>22   *****</p> <p>23</p> |



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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified</p> <p>2 Court Reporter of Eufaula, Alabama, acting as</p> <p>3 Commissioner, certify that on this date, as</p> <p>4 provided by the Alabama Rules of Civil Procedure</p> <p>5 and the foregoing stipulation of counsel, there</p> <p>6 came before me at the Law Offices of WILLIAMS,</p> <p>7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>8 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>9 5:10 p.m., ANNIE R. JOHNSON, witness in the above</p> <p>10 cause, for oral examination, whereupon the</p> <p>11 following proceedings were had:</p> <p>12</p> <p>13 ANNIE R. JOHNSON,</p> <p>14 being first duly sworn, was examined and</p> <p>15 testified as follows:</p> <p>16</p> <p>17 THE COURT REPORTER: Usual</p> <p>18 stipulations?</p> <p>19 MR. UNDERWOOD: Yes.</p> <p>20 MR. GOULD: Yes.</p> <p>21</p> <p>22 EXAMINATION</p> <p>23 BY MR. GOULD:</p>  | <p style="text-align: right;">8</p> <p>1 talking over each other. In addition, it means</p> <p>2 that you will hear my whole question before you</p> <p>3 give your answer. Okay?</p> <p>4 A. Okay.</p> <p>5 Q. Now, if I ask a question and you don't</p> <p>6 understand, which is more than likely to happen</p> <p>7 the way I ask questions, just let me know. I'll</p> <p>8 repeat the question or I'll try and ask the</p> <p>9 question in a different way so that it's not</p> <p>10 confusing to you.</p> <p>11 A. Okay.</p> <p>12 Q. If, during the course of the deposition, you</p> <p>13 don't know or don't remember something, "I don't</p> <p>14 know" or "I don't remember" is an acceptable</p> <p>15 answer. I'd much rather you say that than just</p> <p>16 try and guess at something.</p> <p>17 A. Okay.</p> <p>18 Q. And I don't anticipate that the deposition</p> <p>19 will take that long, but if for some reason you</p> <p>20 feel you need to take a break, that's fine. Just</p> <p>21 let me know and we can stop and you can take a</p> <p>22 break.</p> <p>23 A. Okay.</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Ms. Johnson.</p> <p>2 A. Hi.</p> <p>3 Q. My name is Malcolm Gould. I'm an attorney</p> <p>4 with the law firm of Pelino &amp; Lentz in</p> <p>5 Philadelphia. We represent the Defendant Equity</p> <p>6 Group Eufaula Division, LLC, in a lawsuit filed in</p> <p>7 Federal Court in the Middle District of Alabama.</p> <p>8 We're here to take your deposition today.</p> <p>9 You're a plaintiff in this lawsuit. I'm going to</p> <p>10 give you some ground rules that we're going to</p> <p>11 follow during this deposition.</p> <p>12 As you can see, we have a court reporter</p> <p>13 here. She's going to take down my questions and</p> <p>14 your answers. I'd ask that, for that reason, you</p> <p>15 keep all of your answers verbal, instead of</p> <p>16 nodding your head or shaking your head or</p> <p>17 something like that. It's difficult for her to</p> <p>18 take down physical gestures as opposed to verbal</p> <p>19 responses.</p> <p>20 A. Okay.</p> <p>21 Q. I would also ask that you wait until I</p> <p>22 finish my question before you give your answer.</p> <p>23 That way it makes it easier for her if we're not</p> | <p style="text-align: right;">9</p> <p>1 Q. Can you please state your full name for the</p> <p>2 record, please?</p> <p>3 A. Annie Ruth Johnson.</p> <p>4 Q. Ms. Johnson, what's your home address?</p> <p>5 A. 1255 North Eufaula Avenue.</p> <p>6 Q. And that's here in Eufaula?</p> <p>7 A. Yes. Lot 99-A.</p> <p>8 Q. And are you currently employed, ma'am?</p> <p>9 A. Yes.</p> <p>10 Q. And where are employed?</p> <p>11 A. With Equity, Baker Hill.</p> <p>12 Q. Okay. How long have you worked there?</p> <p>13 A. Three years and about seven months.</p> <p>14 Q. And what is your current position there?</p> <p>15 A. I work in evis salvage department.</p> <p>16 Q. And how long have you been in that</p> <p>17 particular position?</p> <p>18 A. Well, for that long.</p> <p>19 Q. Okay. Since you've been hired, you've</p> <p>20 worked in the evis salvage area?</p> <p>21 A. Yes.</p> <p>22 Q. Do you only work in the salvage area or do</p> <p>23 you work in other positions in evis as well?</p>   |



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| <p style="text-align: right;">10</p> <p>1 A. Yes, I do.</p> <p>2 Q. So you rotate between other positions?</p> <p>3 A. Yes.</p> <p>4 Q. All the positions you rotate between,</p> <p>5 they're still in the evisceration area?</p> <p>6 A. Yes.</p> <p>7 Q. You don't rotate into any debone positions?</p> <p>8 A. No, I don't.</p> <p>9 Q. Okay. Ma'am, what is your understanding as</p> <p>10 to what this lawsuit is about?</p> <p>11 A. About wages that I've earned and not been</p> <p>12 paid for.</p> <p>13 Q. Can you describe for me instances in which</p> <p>14 you think you've earned wages and not been paid</p> <p>15 for them? What are some examples of the things</p> <p>16 you think you should have been paid for but were</p> <p>17 not paid for?</p> <p>18 A. Well, putting on and take off my PPE.</p> <p>19 Q. Anything else?</p> <p>20 A. That's the only thing that I can recall at</p> <p>21 the moment.</p> <p>22 Q. You're not asserting any claims that you</p> <p>23 worked shifts for which you weren't paid for, or</p> | <p style="text-align: right;">12</p> <p>1 where you have sued somebody else, other than this</p> <p>2 divorce case?</p> <p>3 A. No, I haven't.</p> <p>4 Q. Have you ever been sued by anybody else</p> <p>5 before?</p> <p>6 A. Yes, I have.</p> <p>7 Q. And can you describe the circumstances of</p> <p>8 that to me?</p> <p>9 MR. UNDERWOOD: Was it over a debt?</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. UNDERWOOD: Okay. Tell him about</p> <p>12 it.</p> <p>13 A. Auto accident.</p> <p>14 Q. Okay. Someone sued you claiming that you</p> <p>15 injured them in an auto accident?</p> <p>16 A. No. Explain that to me further.</p> <p>17 Q. If you'll just tell me generally what the</p> <p>18 lawsuit was about. We don't have to get into a</p> <p>19 lot of specifics.</p> <p>20 A. I know, but I'm not quite sure.</p> <p>21 Q. Well, if you don't know what the lawsuit was</p> <p>22 about. I mean, was it related to an auto</p> <p>23 accident?</p>  |
| <p style="text-align: right;">11</p> <p>1 there's weeks that you worked that you weren't</p> <p>2 paid for, anything like that?</p> <p>3 A. Not that I can recall.</p> <p>4 Q. How did you first learn of this lawsuit?</p> <p>5 A. Other people talking about it, discussing</p> <p>6 it.</p> <p>7 Q. All right. Do you remember who?</p> <p>8 A. No, I don't.</p> <p>9 Q. Was it anyone specifically talking to you?</p> <p>10 A. No.</p> <p>11 Q. No one specifically telling you that you</p> <p>12 should sign up for this lawsuit?</p> <p>13 A. No.</p> <p>14 Q. Have you ever been a party in any litigation</p> <p>15 before in any other lawsuits?</p> <p>16 A. Yes, I have.</p> <p>17 Q. And what lawsuit was that?</p> <p>18 A. Divorce.</p> <p>19 Q. Other than that divorce proceeding, have you</p> <p>20 been a party in any other lawsuits?</p> <p>21 A. I'm sure that I have, but I can't recall at</p> <p>22 the moment.</p> <p>23 Q. Have you ever been a plaintiff in a lawsuit</p>   | <p style="text-align: right;">13</p> <p>1 A. Yes.</p> <p>2 MR. UNDERWOOD: Were you suing them or</p> <p>3 were they suing you?</p> <p>4 THE WITNESS: Well, I'm not sure if</p> <p>5 they sued me. I mean, I know my insurance paid.</p> <p>6 MR. UNDERWOOD: So you were in an auto</p> <p>7 accident; it was your fault, and then your</p> <p>8 insurance paid somebody?</p> <p>9 THE WITNESS: Yes.</p> <p>10 MR. UNDERWOOD: But you're not sure if</p> <p>11 you got sued?</p> <p>12 THE WITNESS: Right.</p> <p>13 MR. GOULD: Okay. That's fine.</p> <p>14 MR. UNDERWOOD: Yeah, that's all it is.</p> <p>15 And he's got a right to get to that in discovery.</p> <p>16 (BY MR. GOULD)</p> <p>17 Q. Are there any other instances that you can</p> <p>18 think of that you've been involved in a lawsuit?</p> <p>19 A. Not that I can think of.</p> <p>20 Q. I mean, there's a difference between an</p> <p>21 insurance claim and a lawsuit. If you've ever</p> <p>22 been sued, you would probably know about it.</p> <p>23 MR. UNDERWOOD: Yeah. The sheriff</p> |

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| <p style="text-align: right;">14</p> <p>1 would come to your door with some papers.</p> <p>2 Q. Other than meeting with your attorneys to</p> <p>3 prepare for your deposition today, have you met</p> <p>4 with anybody to discuss this lawsuit?</p> <p>5 A. No.</p> <p>6 Q. Have you attended any sort of group meetings</p> <p>7 where this lawsuit was discussed? Once again, not</p> <p>8 meetings with your attorneys.</p> <p>9 A. No.</p> <p>10 Q. Are you a member of the union?</p> <p>11 A. No, I'm not.</p> <p>12 Q. And have you ever been a member of the union</p> <p>13 during your employment at Equity Group?</p> <p>14 A. No.</p> <p>15 Q. I'm going to ask you some questions about</p> <p>16 some of the issues that have been raised in this</p> <p>17 lawsuit.</p> <p>18 In terms of the position in which you work</p> <p>19 at Equity, are there any items of clothing or</p> <p>20 equipment that you have to wear when you are out</p> <p>21 on the production floor?</p> <p>22 A. My PPE that I have to wear are boots,</p> <p>23 earplugs, hair nets, cloth gloves, rubber gloves,</p> | <p style="text-align: right;">16</p> <p>1 wear the sleeves if you wanted to, but you're not</p> <p>2 required to; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you indicated that you wear boots; is</p> <p>5 that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Can you wear the boots from home?</p> <p>8 A. Yes, I can.</p> <p>9 Q. Do you normally wear the boots from home?</p> <p>10 A. No, I don't.</p> <p>11 Q. But that's your choice?</p> <p>12 A. Yes.</p> <p>13 Q. And you could wear them if you wanted to?</p> <p>14 A. Yes.</p> <p>15 Q. Are there any other items that you</p> <p>16 identified for me that you can wear from home?</p> <p>17 A. No.</p> <p>18 Q. Okay. Now, during the time you've been</p> <p>19 employed at Equity, have you always been able to</p> <p>20 wear your boots from home if you wanted?</p> <p>21 A. No.</p> <p>22 Q. So there was a time when you couldn't wear</p> <p>23 your boots from home?</p>   |
| <p style="text-align: right;">15</p> <p>1 arm guards, chain glove, smock, apron. If I left</p> <p>2 anything out, it's because I'm nervous.</p> <p>3 Q. There's nothing to be nervous about. Do you</p> <p>4 wear any plastic sleeves?</p> <p>5 A. In my department, no. In what I do, no.</p> <p>6 But I can.</p> <p>7 Q. When you rotate between positions, is there</p> <p>8 ever a position where you have to wear the plastic</p> <p>9 sleeves?</p> <p>10 A. Yes.</p> <p>11 Q. Now, are you required to wear them or is it</p> <p>12 just something that you can wear if you want to?</p> <p>13 A. In evis, if I want to.</p> <p>14 Q. Now, do you work anywhere outside of evis?</p> <p>15 A. No.</p> <p>16 Q. So you've only worked in evis; is that</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. So when you say, "In evis," it's not like</p> <p>20 you worked somewhere else, right?</p> <p>21 A. No. Like, if I worked in debone.</p> <p>22 Q. Okay. Well, I'm just talking about you. I</p> <p>23 know other people wear other things. So you could</p>   | <p style="text-align: right;">17</p> <p>1 A. Yes.</p> <p>2 Q. Do you remember when that was?</p> <p>3 A. No, I'm not quite sure.</p> <p>4 Q. When you first started at Equity Group,</p> <p>5 could you wear your boots from home?</p> <p>6 A. No, I couldn't.</p> <p>7 Q. So at some point in time, something happened</p> <p>8 and there was a change made and you were able to</p> <p>9 wear your boots from home; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. But you don't remember when that was?</p> <p>12 A. Not quite.</p> <p>13 Q. Was it more than a year ago? more than two</p> <p>14 years ago?</p> <p>15 A. (No response.)</p> <p>16 Q. You said you've been there for three years,</p> <p>17 seven months. Was it shortly after you started?</p> <p>18 A. (No response.)</p> <p>19 Q. I mean, if you don't know, you don't know.</p> <p>20 That's okay.</p> <p>21 A. I don't know.</p> <p>22 Q. Like I said, I don't want you to guess.</p> <p>23 Ma'am, when you arrive at the plant -- do you</p> |

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| <p style="text-align: right;">18</p> <p>1 drive yourself to work?</p> <p>2 A. Yes.</p> <p>3 Q. Is there any sort of security that you have</p> <p>4 to clear when you get to the plant?</p> <p>5 A. No.</p> <p>6 Q. Is there a guard house at the entrance?</p> <p>7 A. Yes.</p> <p>8 Q. And do you have to stop and have your car</p> <p>9 searched or anything like that?</p> <p>10 A. No.</p> <p>11 Q. Do you have a sticker on your car?</p> <p>12 A. Yes.</p> <p>13 Q. And as long as you have that sticker, you</p> <p>14 can drive through?</p> <p>15 A. Yes.</p> <p>16 Q. Once you come into the parking lot, is there</p> <p>17 any other security that you have to go through</p> <p>18 before you enter the production area?</p> <p>19 A. No.</p> <p>20 Q. There's no metal detectors or turnstiles or</p> <p>21 anything like that?</p> <p>22 A. No.</p> <p>23 Q. When you arrive at the plant and you enter</p>  | <p style="text-align: right;">20</p> <p>1 Q. So after you go to your locker, you said you</p> <p>2 sit down for a minute or two; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And what do you normally do? I mean, just</p> <p>5 having a drink or just sitting down relaxing?</p> <p>6 A. Yes.</p> <p>7 Q. And then you indicated, I believe, that you</p> <p>8 would go to the supply room next; is that correct?</p> <p>9 A. No. I clock in, then I go to the supply</p> <p>10 room.</p> <p>11 Q. Okay. Now, where is your locker located?</p> <p>12 A. In debone break room.</p> <p>13 Q. And where is the time clock located?</p> <p>14 A. Right at the beginning in the break room,</p> <p>15 right at the door.</p> <p>16 Q. So it's located at the entrance to the</p> <p>17 debone break room?</p> <p>18 A. Yes.</p> <p>19 Q. So you'll clock in, and then you'll go over</p> <p>20 to the supply desk to get some items; is that</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. What items will you get at the supply desk?</p> |
| <p style="text-align: right;">19</p> <p>1 the building, what's the first thing you do?</p> <p>2 A. I go to my locker.</p> <p>3 Q. What do you do there?</p> <p>4 A. I take out things that I need for my work</p> <p>5 area, sit down for a few minutes, and then I clock</p> <p>6 in. And then I go get my other supplies from the</p> <p>7 supply room.</p> <p>8 Q. Okay. Now, do you keep any of these items</p> <p>9 of clothing or equipment in your locker?</p> <p>10 A. Yes, I do.</p> <p>11 Q. What do you keep in your locker?</p> <p>12 A. My boots, my apron, and my arm guard.</p> <p>13 Q. Now, do you ever take any of those items</p> <p>14 home with you to wash them or anything like that?</p> <p>15 A. No.</p> <p>16 Q. Okay. Now, you could take those items home</p> <p>17 with you if you wanted, correct?</p> <p>18 A. Yes.</p> <p>19 Q. You still couldn't wear them into the plant</p> <p>20 from home, correct?</p> <p>21 A. No.</p> <p>22 Q. But you could take them with you?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">21</p> <p>1 A. Cotton liners, rubber gloves, hair net,</p> <p>2 earplugs, apron.</p> <p>3 Q. Okay. Now, are those things that you will</p> <p>4 get every day? Were you getting the apron every</p> <p>5 day? a new apron every day?</p> <p>6 A. No.</p> <p>7 Q. What about rubber gloves? Will you get new</p> <p>8 rubber gloves every day?</p> <p>9 A. I myself prefer new ones every day.</p> <p>10 Q. That's not something you're required to do;</p> <p>11 is that correct?</p> <p>12 A. No.</p> <p>13 Q. If you wanted to use rubber gloves for three</p> <p>14 or four days, assuming that they were still in</p> <p>15 good condition, you could do that; is that</p> <p>16 correct?</p> <p>17 A. For me, I don't prefer that.</p> <p>18 Q. So that's your choice to get new gloves</p> <p>19 every day?</p> <p>20 A. Yes.</p> <p>21 Q. And do you turn in the old gloves and get</p> <p>22 new ones?</p> <p>23 A. Throw them away.</p>  |

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| <p style="text-align: right;">22</p> <p>1 Q. What about cotton gloves? Do you get new<br/>2 cotton gloves every day?<br/>3 A. Yes.<br/>4 Q. Cotton gloves are something that you could<br/>5 reuse if you wanted; is that correct?<br/>6 A. No.<br/>7 Q. No? Is it something you are required to get<br/>8 new every day?<br/>9 A. For me, yes.<br/>10 Q. Okay. And you get new earplugs and hair net<br/>11 every day; is that correct?<br/>12 A. New hair net, not earplugs.<br/>13 Q. Okay. So you may use earplugs more than one<br/>14 time?<br/>15 A. Yes.<br/>16 Q. More than one day?<br/>17 A. Yes.<br/>18 Q. Then after you get those items at the supply<br/>19 desk, what do you do next?<br/>20 A. I go into evis work area.<br/>21 Q. So at that stage, are you already wearing<br/>22 your boots?<br/>23 A. Yes.</p>  | <p style="text-align: right;">24</p> <p>1 A. Yes.<br/>2 Q. And then you put on your smock and you put<br/>3 on your apron?<br/>4 A. Uh-huh.<br/>5 Q. And do you put your gloves on there?<br/>6 A. Yes. My liners and my gloves.<br/>7 Q. All right. Now, you don't put your chain<br/>8 glove on there; is that correct?<br/>9 A. No, I don't.<br/>10 Q. Are you responsible for maintaining or<br/>11 washing your chain glove?<br/>12 A. No, I'm not.<br/>13 Q. Where do you get your chain glove?<br/>14 A. When I get to my production area.<br/>15 Q. And there's an area where the gloves are<br/>16 kept; is that correct?<br/>17 A. Yes.<br/>18 Q. And what about knives? You don't have to<br/>19 maintain or sharpen knives, do you?<br/>20 A. No, I don't.<br/>21 Q. Same thing with scissors? You don't have to<br/>22 sharpen or maintain scissors, do you?<br/>23 A. No, I don't.</p>  |
| <p style="text-align: right;">23</p> <p>1 Q. When do you put your boots on?<br/>2 A. In the break room.<br/>3 Q. Do you put them on before you clock in or<br/>4 after?<br/>5 A. Before I clock in.<br/>6 Q. Do you put on any other items before you<br/>7 clock in?<br/>8 A. My earplugs.<br/>9 Q. Okay. And then you clock in; you go to the<br/>10 supply desk; and then you head into the production<br/>11 area; is that correct?<br/>12 A. Yes.<br/>13 Q. What do you do when you're entering the<br/>14 production area? What's the first thing you do?<br/>15 A. Well, before I get into the production area,<br/>16 I put on my hair net. I enter the production<br/>17 area, make sure my boots are clean, and then go to<br/>18 my left to the rack where you hang smocks; put my<br/>19 smock and apron on.<br/>20 Q. So when you walk into the production area,<br/>21 there's metal racks where you can hang your items?<br/>22 A. Yes.<br/>23 Q. And you hang your items on those racks?</p> | <p style="text-align: right;">25</p> <p>1 Q. From the time you walk through the<br/>2 production door from the time that you're finished<br/>3 putting your items of clothing or equipment on,<br/>4 how long does that take you?<br/>5 A. In the morning?<br/>6 Q. Yes, ma'am. I'm talking about at the<br/>7 beginning of your shift.<br/>8 A. At the beginning of my shift, assuming that<br/>9 I have to be in my work area about five minutes<br/>10 'til, so probably about 10, 12 minutes.<br/>11 Q. So it takes you 10 to 12 minutes to put on<br/>12 your apron, your smock, your gloves, and that's<br/>13 it, right?<br/>14 A. Well, it takes me 10 to 12 minutes to put on<br/>15 everything except for my chain glove and get to my<br/>16 work area.<br/>17 Q. So you're including the time it takes you to<br/>18 walk to your work area in that 10 to 12 minutes?<br/>19 A. Yes.<br/>20 Q. How far is your work area? Where do you<br/>21 normally start in the morning? in the salvage<br/>22 area?<br/>23 A. Yes.</p> |

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| <p style="text-align: right;">26</p> <p>1 Q. And the salvage area is in what I call the</p> <p>2 back left corner of evis, if you're walking</p> <p>3 through the production doors; is that correct?</p> <p>4 A. If you're walking through the production</p> <p>5 doors, you go straight back.</p> <p>6 Q. Right. And the actual entrance is almost in</p> <p>7 the corner of the evis area; is that right?</p> <p>8 A. No.</p> <p>9 Q. No? Okay.</p> <p>10 A. The entrance is right there, and you just go</p> <p>11 straight down to salvage area.</p> <p>12 Q. Okay. And then the evis lines, when you</p> <p>13 walk in the door, are off to your right; is that</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. How far away is it from the front door to</p> <p>17 the salvage area, approximately?</p> <p>18 A. I'm not sure. I can't say.</p> <p>19 Q. Would you say it's -- well, is it less than</p> <p>20 a mile away?</p> <p>21 A. Yes.</p> <p>22 Q. All right. Is it maybe 20 or 30 yards away?</p> <p>23 A. How far is 20 or 30 yards?</p>     | <p style="text-align: right;">28</p> <p>1 Q. So you won't rotate into a different</p> <p>2 position in evis before your first break; is that</p> <p>3 correct?</p> <p>4 A. No.</p> <p>5 Q. No, that's not correct or no, you won't</p> <p>6 rotate?</p> <p>7 A. No, I won't rotate.</p> <p>8 Q. That was a bad question. That's my fault.</p> <p>9 So you'll stay in that evis salvage area until</p> <p>10 your first break. How do you know when it's time</p> <p>11 to go on break?</p> <p>12 A. My line leader.</p> <p>13 Q. So she'll tell you when it's time go on</p> <p>14 break?</p> <p>15 A. Yes.</p> <p>16 Q. Does she tell you when you have to be back,</p> <p>17 or does she just tell you it's time to go on</p> <p>18 break?</p> <p>19 A. She says, "It's time to go on break."</p> <p>20 Q. How long is your first break?</p> <p>21 A. It's supposed to be 30 minutes.</p> <p>22 Q. How many breaks do you get over the course</p> <p>23 of a day?</p>   |
| <p style="text-align: right;">27</p> <p>1 Q. Well, if you're not sure, you're not sure.</p> <p>2 A. I'm not sure.</p> <p>3 Q. And you normally start your shift in the</p> <p>4 salvage area; is that correct, the evis salvage</p> <p>5 area?</p> <p>6 A. Well, I normally start my shift when I walk</p> <p>7 through the double doors to put on my PPE.</p> <p>8 Q. That's fine. I'm not asking you to answer</p> <p>9 some legal issue; I'm asking about your position</p> <p>10 in evis, where you start your day.</p> <p>11 A. Yes, in salvage.</p> <p>12 Q. And in that particular area, you work with a</p> <p>13 knife; is that correct?</p> <p>14 A. A knife, yes.</p> <p>15 Q. And do you also work with scissors?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Are there any other items that you work with</p> <p>18 back there, any other cutting tools?</p> <p>19 A. No.</p> <p>20 Q. Now, how long will you work in that</p> <p>21 particular area? Do you normally work in that</p> <p>22 particular area until your first break?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">29</p> <p>1 A. Two.</p> <p>2 Q. Are they both the same length?</p> <p>3 A. Yes.</p> <p>4 Q. So after your supervisor tells you that it's</p> <p>5 time to go on break, can you describe for me what</p> <p>6 you do next before you exit the production area?</p> <p>7 A. Yes. I pull my chain glove off and take it</p> <p>8 to where it's supposed to be. Then I walk up to</p> <p>9 the sink, wash my apron and gloves and dry them</p> <p>10 off. Then I go over to the rack, take off my</p> <p>11 apron and my smock, my gloves, and hang them up.</p> <p>12 Q. Do you also take off your arm guard?</p> <p>13 A. Yes, wash it. Then I go over to the sink,</p> <p>14 take off everything, and pretty much take the</p> <p>15 dirty smock and throw it in the hamper outside.</p> <p>16 And then I go to break.</p> <p>17 Q. So you'll get a new smock after your break,</p> <p>18 before you return?</p> <p>19 A. Yes.</p> <p>20 Q. Is that something you're required to do or</p> <p>21 is that something you do out of your own personal</p> <p>22 preference?</p> <p>23 A. That's something I do.</p> |



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| <p style="text-align: right;">30</p> <p>1 Q. You could wear the same smock all day</p> <p>2 throughout your shift if you wanted; is that</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. Now, approximately how much time does it</p> <p>6 take you, from the time you leave your position to</p> <p>7 go on break until the time you exit the production</p> <p>8 doors?</p> <p>9 A. I'd say about ten minutes.</p> <p>10 Q. Now, have you ever actually timed yourself</p> <p>11 on how long it takes you to do these tasks before</p> <p>12 going out on break?</p> <p>13 A. No.</p> <p>14 Q. So when you tell me ten minutes, you're</p> <p>15 giving me an estimate of what you think it takes</p> <p>16 you to do that?</p> <p>17 A. When I get in the break room and look at the</p> <p>18 clock, I have about, like, 20 minutes for my</p> <p>19 break.</p> <p>20 Q. Will you do anything else before you go to</p> <p>21 the break room? Do you go to the bathroom</p> <p>22 sometimes?</p> <p>23 A. No.</p>  | <p style="text-align: right;">32</p> <p>1 area, well, back into evis, go to the rack, put on</p> <p>2 my supplies, and then walk back to the production</p> <p>3 area. Well, wash first, make sure my apron and</p> <p>4 gloves and everything are clean, and then I go</p> <p>5 back to the production area.</p> <p>6 Q. I thought you said that you washed your</p> <p>7 apron and gloves before you went on break; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you wash them again when you come back</p> <p>11 from break?</p> <p>12 A. Yes.</p> <p>13 Q. Is that something you're required to do?</p> <p>14 A. I just try to make sure there's not any meat</p> <p>15 or anything on it.</p> <p>16 Q. Well, don't you do that before you go out on</p> <p>17 break?</p> <p>18 A. Yes.</p> <p>19 Q. All right. From the time you leave the</p> <p>20 break room, not including the time you go to the</p> <p>21 bathroom, how much time do you estimate it takes</p> <p>22 you to go get your smock and go out to the</p> <p>23 production floor, get your items back on and get</p> |
| <p style="text-align: right;">31</p> <p>1 Q. No? When you get to the break room, what do</p> <p>2 you normally do?</p> <p>3 A. Get a bag of chips and a pop.</p> <p>4 Q. So you'll get something to eat or drink?</p> <p>5 A. Yes.</p> <p>6 Q. And do you socialize with other employees?</p> <p>7 A. Yes.</p> <p>8 Q. And how do you know when it's time to return</p> <p>9 to the production floor?</p> <p>10 A. Clock.</p> <p>11 Q. So you have an idea of what time it was that</p> <p>12 you left for break; and by looking at the clock,</p> <p>13 you estimate what time you have to return to the</p> <p>14 production floor; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Can you describe for me what you do when</p> <p>17 you're leaving the break room to go back to the</p> <p>18 production area?</p> <p>19 A. Yes. First, I go to the bathroom. And you</p> <p>20 have to take off your hair net and everything</p> <p>21 before you go in. I come out, put my hair net and</p> <p>22 earplugs back on, go to the supply closet and get</p> <p>23 a smock; and then I go back into my production</p> | <p style="text-align: right;">33</p> <p>1 to your spot on the production line?</p> <p>2 A. Probably about ten minutes.</p> <p>3 Q. Once again, have you ever timed yourself</p> <p>4 doing that?</p> <p>5 A. No.</p> <p>6 Q. And are these events similar to what you'll</p> <p>7 do with your second break? Before you go out on</p> <p>8 your second break and then return from your second</p> <p>9 break, you'll do the same things; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. You don't do anything significantly</p> <p>12 different?</p> <p>13 A. Yes.</p> <p>14 Q. And you estimate that it would take the same</p> <p>15 amount of time to do those things before and after</p> <p>16 your second break?</p> <p>17 A. Yes.</p> <p>18 Q. Now, when you return from your first break,</p> <p>19 do you go to the same area on the production</p> <p>20 floor? Do you go back into the evis salvage or do</p> <p>21 you go to a different position?</p> <p>22 A. I go back to salvage.</p> <p>23 Q. Will you stay there for the entire time</p>  |

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| <p style="text-align: right;">34</p> <p>1 until your next break?</p> <p>2 A. Yes. But we have different positions.</p> <p>3 Q. Okay. So you'll have different positions</p> <p>4 within the salvage area?</p> <p>5 A. Yes.</p> <p>6 Q. When you start in the salvage area, what job</p> <p>7 are you normally doing at the beginning of your</p> <p>8 shift?</p> <p>9 A. It depends on what the line leader tells me</p> <p>10 to do.</p> <p>11 Q. Okay. So you could be assigned to a</p> <p>12 different position on a different day to start</p> <p>13 your shift?</p> <p>14 A. Yes.</p> <p>15 Q. And then when you return from your break,</p> <p>16 you go to a different position but still within</p> <p>17 that same salvage area?</p> <p>18 A. Yes.</p> <p>19 Q. Can you describe for me what the different</p> <p>20 positions are within the salvage area?</p> <p>21 A. You have a position where you're using the</p> <p>22 scissors and you have a position where you're</p> <p>23 using a knife.</p>   | <p style="text-align: right;">36</p> <p>1 will go to when you rotate after your second</p> <p>2 break?</p> <p>3 A. It's either -- yes.</p> <p>4 Q. And that's the same position that you</p> <p>5 normally go to every day?</p> <p>6 I'm just trying to get an understanding as</p> <p>7 to whether you go to a particular position on the</p> <p>8 evis line that you go to as part of your rotation,</p> <p>9 or you could go to any position on the evis line.</p> <p>10 A. It's that position.</p> <p>11 Q. Okay. And then do you go from that position</p> <p>12 -- is that where your shift ends? or do you go</p> <p>13 back to the salvage area?</p> <p>14 A. It depends on when I rotate to that. If I</p> <p>15 rotate in the morning or after lunch.</p> <p>16 Q. Okay. So you may not always rotate to that</p> <p>17 particular position after your second break; you</p> <p>18 may rotate to that position after your first</p> <p>19 break?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. I understand. So you're not</p> <p>22 necessarily always ending your shift at the same</p> <p>23 position every day; is that correct?</p> |
| <p style="text-align: right;">35</p> <p>1 Q. Okay. Just those two positions?</p> <p>2 A. Yes. And when I say rotate to another spot,</p> <p>3 it's like on the evis, on the line.</p> <p>4 Q. Okay. And when will you do that, when you</p> <p>5 rotate to a spot on the evis line?</p> <p>6 A. It depends on the day.</p> <p>7 Q. Okay. So some days you'll rotate to a spot</p> <p>8 on the evis line, but it's not always the same</p> <p>9 spot; is that what you're saying?</p> <p>10 A. I mean, it's the same spot, but just</p> <p>11 different days.</p> <p>12 Q. All right. So do you go to the same spot on</p> <p>13 the evis line every day? If I'm -- if I recall</p> <p>14 the evis line properly, there's a spot where you</p> <p>15 have someone who is rehanging chickens, and then</p> <p>16 they go down the line; and then there's different</p> <p>17 tables or stations along the evis line. There may</p> <p>18 be four or five different table stations, along</p> <p>19 the evis line. And then there's a couple spots in</p> <p>20 between where the birds are rehung and the tables</p> <p>21 are. Does that seem pretty accurate?</p> <p>22 A. Well, not where I go. I cut the wings.</p> <p>23 Q. Okay. And is that the position that you</p> | <p style="text-align: right;">37</p> <p>1 A. No, I'm not.</p> <p>2 Q. Okay. In each of those positions, do you</p> <p>3 still wear this same clothing or equipment?</p> <p>4 A. Yes.</p> <p>5 Q. And you still wear your arm guard and a mesh</p> <p>6 glove on each of those positions?</p> <p>7 A. All of my PPE I'm still wearing.</p> <p>8 Q. Okay. Can you describe for me what you do</p> <p>9 at the end of your shift? How do you know that</p> <p>10 your shift is over?</p> <p>11 A. Usually the line leader lets us know that</p> <p>12 our shift is over.</p> <p>13 Q. Is there -- now, you work on day shift,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. Do you normally have a scheduled end time?</p> <p>17 A. Yes.</p> <p>18 Q. And what time is that?</p> <p>19 A. Three o'clock.</p> <p>20 Q. And is there someone who then comes on and</p> <p>21 replaces you, takes your spot on the evis line at</p> <p>22 that time?</p> <p>23 A. Usually.</p>  |

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| <p style="text-align: right;">38</p> <p>1 Q. Unless they're not there or someone's not<br/>2 showing up?<br/>3 A. Yes.<br/>4 Q. Okay. Then are there times --<br/>5 MR. GOULD: Well, strike that.<br/>6 Q. Even when you're working back in the evis<br/>7 salvage area, is that a walk-on/walk-off type of<br/>8 relationship as well?<br/>9 A. Yes.<br/>10 Q. So you wait for somebody to come on and<br/>11 relieve you?<br/>12 A. Yes.<br/>13 Q. Are there times when you just leave without<br/>14 someone relieving you, where your supervisor would<br/>15 say, "Okay. End of shift; you can leave"?<br/>16 A. Yes.<br/>17 Q. Can you describe for me what it is you do at<br/>18 the end of shift, from the time you leave your<br/>19 position until the time you leave the production<br/>20 floor?<br/>21 A. Yes. I take off my chain glove; I walk up<br/>22 to the sink, wash my apron, wash my gloves --<br/>23 well, throw away my gloves.</p>  | <p style="text-align: right;">40</p> <p>1 someone in management about the fact that you<br/>2 don't believe you're being paid for all the time<br/>3 you're working?<br/>4 A. No.<br/>5 Q. I think those are all the questions I have<br/>6 for you, ma'am. Thank you very much.<br/>7 BY MR. UNDERWOOD:<br/>8 Q. During your times when you're changing in<br/>9 and out of your PPE, have your supervisors ever<br/>10 observed you doing that?<br/>11 A. Yes, they do. They're watching.<br/>12 Q. Okay. That's all I've got.<br/>13<br/>14 (The deposition was concluded.)<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23</p>  |
| <p style="text-align: right;">39</p> <p>1 Q. Well, do you wash them or throw them away?<br/>2 A. I throw them away.<br/>3 Q. Okay.<br/>4 A. I take off my apron, fold it, wash my arm<br/>5 guard; I take off my smock, and head out.<br/>6 Q. All right. And approximately how long do<br/>7 you think it takes you to do all of that?<br/>8 A. Probably about 10 minutes.<br/>9 Q. And then what do you do once you leave the<br/>10 production area?<br/>11 A. I put my smock in the bin, and I go to the<br/>12 debone break room and go to my locker, take off my<br/>13 boots and retrieve my stuff out of my locker, put<br/>14 my boots in, put my arm guard and apron in, and<br/>15 then I'm pretty much ready to clock out.<br/>16 Q. Sometimes will you wait around and have<br/>17 something to eat?<br/>18 A. No.<br/>19 Q. So when your shift is over, you're ready to<br/>20 leave?<br/>21 A. Yes.<br/>22 Q. I understand. Now, have you ever raised a<br/>23 complaint with your supervisor or payroll or</p> | <p style="text-align: right;">41</p> <p>1 CERTIFICATE<br/>2<br/>3 STATE OF ALABAMA<br/>4 BARBOUR COUNTY<br/>5<br/>6 I hereby certify that the above and<br/>7 foregoing deposition was taken down by me in<br/>8 stenotype and the questions and answers thereto<br/>9 were transcribed by means of computer-aided<br/>10 transcription, and that the foregoing represents<br/>11 a true and correct transcript of the testimony<br/>12 given by said witness upon said hearing.<br/>13 I further certify that I am neither of<br/>14 counsel, nor kin to the parties to the action,<br/>15 nor am I in anywise interested in the result of<br/>16 said cause.<br/>17<br/>18<br/>19 CYNTHIA M. NOAKES, Commissioner<br/>20 Certified Court Reporter,<br/>21 ACCR #327 - Expires 09/30/2008<br/>22<br/>23 Commission Expires 07/08/2009</p> |



**TAB 24**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,

Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,

Defendant.

\* \* \* \* \*

DEPOSITION OF DERINDA JOHNSON,  
taken pursuant to notice and  
stipulation on behalf of the Defendant,  
at Williams, Pothoff, Williams & Smith,  
125 South Orange Avenue, Eufaula,  
Alabama, before Bridgette Mitchell,  
Shorthand Reporter and Notary Public in  
and for the State of Alabama at Large,  
on May 21, 2008, commencing at  
5:10 p.m.

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| <p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3</p> <p>4 FOR THE PLAINTIFFS:</p> <p>5 Carl E. Underwood, III, Esquire</p> <p>6 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>7 163 W. Main Street</p> <p>8 Dothan, Alabama 36301</p> <p>9</p> <p>10 Jacob A. Kiser, Esquire</p> <p>11 WIGGINS, CHILDS, QUIN &amp; PANTAZIS</p> <p>12 The Kress Building</p> <p>13 301 Nineteenth Street North</p> <p>14 Birmingham, Alabama 35203</p> <p>15</p> <p>16 FOR THE DEFENDANT:</p> <p>17 Gary D. Fry, Esquire</p> <p>18 PELINO &amp; LENTZ</p> <p>19 One Liberty Place</p> <p>20 Thirty-second Floor</p> <p>21 Philadelphia, Pennsylvania 19103</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 DERINDA JOHNSON is hereby waived and</p> <p>6 that said deposition may be introduced</p> <p>7 at the trial of this case or used in</p> <p>8 any other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21</p> <p>22</p> <p>23</p>                       |
| <p style="text-align: right;">3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of DERINDA JOHNSON is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p style="text-align: right;">5</p> <p>1 DERINDA JOHNSON, having first</p> <p>2 been duly sworn or affirmed to speak</p> <p>3 the truth, the whole truth, and nothing</p> <p>4 but the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Ms. Johnson?</p> <p>8 A. Yes.</p> <p>9 Q. You were in the room when we took the</p> <p>10 last deposition; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And do you recall my instructions and</p> <p>13 little speech that I made in the</p> <p>14 beginning?</p> <p>15 A. Your instructions?</p> <p>16 Q. What?</p> <p>17 A. Your instructions?</p> <p>18 Q. Yeah. Do you want me to say -- shall I</p> <p>19 do it again?</p> <p>20 A. No, you don't have to. I can -- I can</p> <p>21 pick it up.</p> <p>22 Q. As you may recall, I'm one of the</p> <p>23 lawyers for the company. And we've</p> |

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| <p>6</p> <p>1 asked you here to put certain questions</p> <p>2 to you about a lawsuit that --</p> <p>3 A. Yes.</p> <p>4 Q. -- you and some other folks brought. I</p> <p>5 represent Equity Group Eufaula.</p> <p>6 A. Okay.</p> <p>7 Q. And have you ever been deposed before?</p> <p>8 A. No.</p> <p>9 Q. And you saw what happened during the</p> <p>10 last deposition. I ask questions and</p> <p>11 the witness answers and Bridgette takes</p> <p>12 down everything we say.</p> <p>13 A. Yes.</p> <p>14 Q. Okay?</p> <p>15 A. Uh-huh.</p> <p>16 Q. All right. Now we're going.</p> <p>17 A. Okay.</p> <p>18 Q. Now, you recall that I would like very</p> <p>19 much if you and I don't talk over one</p> <p>20 another and that whatever answers you</p> <p>21 give be verbal as opposed to a shaking</p> <p>22 and nodding of the head.</p> <p>23 A. Yes.</p> | <p>8</p> <p>1 Equity, did you?</p> <p>2 A. No.</p> <p>3 Q. And you were last employed by CP in</p> <p>4 February of '03?</p> <p>5 A. Yes.</p> <p>6 Q. What job did you do for CP?</p> <p>7 A. It varied. Pack-out, debone.</p> <p>8 Q. Were you ever a box-room employee?</p> <p>9 A. Yes. That was the same as pack-out,</p> <p>10 but yeah.</p> <p>11 Q. Pardon?</p> <p>12 A. Yeah, box room. All of that. Yeah.</p> <p>13 Q. Can you put any time frame in which you</p> <p>14 worked these various jobs for CP?</p> <p>15 A. I don't understand.</p> <p>16 Q. You worked for CP a little over a year?</p> <p>17 A. Yeah.</p> <p>18 Q. During that year time, what was the</p> <p>19 first job you had there?</p> <p>20 A. The box room.</p> <p>21 Q. The box room?</p> <p>22 A. Uh-huh.</p> <p>23 Q. And how long did you work in the box</p> |
| <p>7</p> <p>1 Q. Okay?</p> <p>2 A. Okay.</p> <p>3 Q. All right. We're good to go. Are you</p> <p>4 currently employed?</p> <p>5 A. No.</p> <p>6 Q. Okay. And what's your home address?</p> <p>7 A. 151 April Street, Union Springs,</p> <p>8 Alabama.</p> <p>9 Q. And what's your date of birth?</p> <p>10 A. November 16, 1977.</p> <p>11 Q. I assume that at one point in time you</p> <p>12 worked at Equity?</p> <p>13 A. Yes.</p> <p>14 Q. And for what period of time?</p> <p>15 A. I think January '02 to, like, February</p> <p>16 '03.</p> <p>17 Q. January of '02 to February of '03?</p> <p>18 A. Uh-huh.</p> <p>19 Q. So during the time you worked there,</p> <p>20 the plant was owned by CP?</p> <p>21 A. Yeah.</p> <p>22 Q. Equity took it over sometime in 2004.</p> <p>23 So knowing that, you never worked for</p>                                   | <p>9</p> <p>1 room?</p> <p>2 A. Till almost the end. And then if they</p> <p>3 needed me somewhere else, they'll come</p> <p>4 get me, like that. That's how I did</p> <p>5 it.</p> <p>6 Q. So is it fair to say that almost all of</p> <p>7 your time was spent in the box room</p> <p>8 when you worked for CP?</p> <p>9 A. Yeah.</p> <p>10 Q. And for what reason did your employment</p> <p>11 end at CP?</p> <p>12 A. Just look for another job.</p> <p>13 Q. How many days did you work, say, in the</p> <p>14 debone line?</p> <p>15 A. It was some weeks.</p> <p>16 Q. Some weeks?</p> <p>17 A. Uh-huh.</p> <p>18 Q. What about pack-out?</p> <p>19 A. Same.</p> <p>20 Q. And that was towards the end of the</p> <p>21 time --</p> <p>22 A. Yeah.</p> <p>23 Q. -- you worked there? What shift did</p>                                   |

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| <p style="text-align: right;">10</p> <p>1 you work?</p> <p>2 A. Second. It was eleven to seven.</p> <p>3 Q. Pardon?</p> <p>4 A. I think it was eleven to seven.</p> <p>5 Q. Eleven to seven?</p> <p>6 A. Uh-huh. (Witness nods head.)</p> <p>7 Q. Is that 11 p.m.?</p> <p>8 A. Yeah.</p> <p>9 Q. What did you do in the box room?</p> <p>10 A. Make boxes, send them down the chute.</p> <p>11 Q. Very good. And in pack-out, what did</p> <p>12 you do?</p> <p>13 A. Bag, bag chicken and weigh it.</p> <p>14 Q. What?</p> <p>15 A. Bag chicken, weigh it, box.</p> <p>16 Q. And then put it in boxes?</p> <p>17 A. Uh-huh. (Witness nods head.)</p> <p>18 Q. And what about debone?</p> <p>19 A. Cut -- cut wings.</p> <p>20 Q. Cut wings?</p> <p>21 A. Uh-huh.</p> <p>22 Q. How many hours per week did you work?</p> <p>23 A. Per week?</p>                                       | <p style="text-align: right;">12</p> <p>1 Q. What wages do you feel that you weren't</p> <p>2 paid to which you are entitled?</p> <p>3 A. The wages, like, from time, like, break</p> <p>4 time -- well, not on break time.</p> <p>5 Getting off the line to putting your</p> <p>6 stuff on and stuff like that.</p> <p>7 Q. And how did you come to that</p> <p>8 understanding?</p> <p>9 A. All I could figure.</p> <p>10 Q. Sorry?</p> <p>11 A. It's all I could figure.</p> <p>12 MR. KISER: You have to speak</p> <p>13 up.</p> <p>14 A. That's all I can -- just from break</p> <p>15 time, from time I put my stuff on to</p> <p>16 the time I take it off.</p> <p>17 Q. Did you come to understand that you</p> <p>18 might have a claim by talking with</p> <p>19 other people? And I'm not interested</p> <p>20 in what you talked with the lawyers</p> <p>21 about.</p> <p>22 A. Well, yeah. I work.</p> <p>23 Q. Did you talk with coworkers?</p> |
| <p style="text-align: right;">11</p> <p>1 Q. Yeah.</p> <p>2 A. Was it forty? Forty-eight hours;</p> <p>3 right?</p> <p>4 Q. I'm asking you. Did you work eight</p> <p>5 hours a day?</p> <p>6 A. Yeah, eight hours a day.</p> <p>7 Q. And you worked five days a week?</p> <p>8 A. Right.</p> <p>9 Q. Monday through Friday?</p> <p>10 A. Monday through Friday.</p> <p>11 Q. When you worked at CP, were you a</p> <p>12 member of the union?</p> <p>13 A. No.</p> <p>14 Q. And how did you find out about this</p> <p>15 lawsuit?</p> <p>16 A. Just heard it through the TV or someone</p> <p>17 was talking about it.</p> <p>18 Q. And what was your -- what is your</p> <p>19 understanding of the claim that you</p> <p>20 have brought?</p> <p>21 A. It was, like, for lost wages off the</p> <p>22 last three years, if someone had worked</p> <p>23 the last three years.</p> | <p style="text-align: right;">13</p> <p>1 A. No.</p> <p>2 Q. Did you tell me that you heard from</p> <p>3 friends about the lawsuit?</p> <p>4 A. Yeah.</p> <p>5 Q. And what did they tell you?</p> <p>6 A. They had a lawsuit.</p> <p>7 Q. Did they tell you that they had a claim</p> <p>8 for break time?</p> <p>9 A. They just told me they had for back</p> <p>10 wages, wasn't getting -- wasn't getting</p> <p>11 paid for how much they worked. They</p> <p>12 weren't getting the correct amount of</p> <p>13 money.</p> <p>14 Q. And when did you find out that the</p> <p>15 claim related to the break time?</p> <p>16 A. Well, I just figured it myself.</p> <p>17 Q. Okay. Did you review any papers before</p> <p>18 you came here?</p> <p>19 A. No.</p> <p>20 Q. Did you speak with anyone besides the</p> <p>21 lawyers?</p> <p>22 A. No.</p> <p>23 Q. When you worked in pack-out -- strike</p>  |

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| <p style="text-align: right;">14</p> <p>1 that. When you worked in the box room</p> <p>2 for CP, what items of outer garments,</p> <p>3 clothing, PPE, whatever anybody wants</p> <p>4 to call it, what items were -- did you</p> <p>5 wear every day?</p> <p>6 A. Nothing but my smock, hair net, boots,</p> <p>7 and that's it.</p> <p>8 Q. Smock, hair net and boots? That's all</p> <p>9 you wore when you --</p> <p>10 A. That's all I -- yeah.</p> <p>11 Q. -- were making boxes?</p> <p>12 A. Uh-huh. (Witness nods head.)</p> <p>13 Q. And what about when you were doing</p> <p>14 pack-out, what did you wear?</p> <p>15 A. All the PPE equipment, all --</p> <p>16 everything that we were supposed to</p> <p>17 wear.</p> <p>18 Q. What's PPE?</p> <p>19 A. The equipment you're supposed to wear.</p> <p>20 Q. And what was it? What did you wear?</p> <p>21 A. Different -- well, smock, the apron,</p> <p>22 the sleeves, the gloves, hair net,</p> <p>23 earplugs, boots. All I can ...</p> | <p style="text-align: right;">16</p> <p>1 A. When they needed help doing other</p> <p>2 things, that's what I had to do.</p> <p>3 Q. Would you characterize it as a little,</p> <p>4 small amount of time that you worked in</p> <p>5 the pack-out?</p> <p>6 A. About -- probably a month or so.</p> <p>7 Q. A month?</p> <p>8 A. Probably about a month or so.</p> <p>9 Q. A month. And approximately how much</p> <p>10 time did you spend on the debone line?</p> <p>11 A. Probably just a couple of weeks.</p> <p>12 Q. Now, when you worked in the box room</p> <p>13 for CP, the smock that you wore, the</p> <p>14 hair net, and the boots, were they</p> <p>15 provided to you by CP?</p> <p>16 A. Yes.</p> <p>17 Q. And could you wear any of those items</p> <p>18 from home?</p> <p>19 A. No.</p> <p>20 Q. Not even the boots?</p> <p>21 A. Oh, yeah, the boots.</p> <p>22 Q. Okay. You could wear the boots from</p> <p>23 home?</p> |
| <p style="text-align: right;">15</p> <p>1 Q. You didn't wear the plastic sleeves,</p> <p>2 the hard plastic guards, did you?</p> <p>3 A. No.</p> <p>4 Q. And what about when you went on the</p> <p>5 deboning line, what did you wear?</p> <p>6 A. All of that and the -- the guard and</p> <p>7 the -- yeah.</p> <p>8 Q. Yeah what?</p> <p>9 A. All of that. All of the required.</p> <p>10 Q. Which of these items in these jobs was</p> <p>11 it your understanding were -- you were</p> <p>12 required to wear?</p> <p>13 A. For whatever was called for that job,</p> <p>14 that attire, the smock, the apron,</p> <p>15 whatever the job would required. I had</p> <p>16 three different jobs, so I had</p> <p>17 different things.</p> <p>18 Q. Am I correct that you told me that for</p> <p>19 that year that you worked at CP, you</p> <p>20 spent most of your time in the box</p> <p>21 room?</p> <p>22 A. Right.</p> <p>23 Q. And was that a little amount of time?</p>                       | <p style="text-align: right;">17</p> <p>1 A. Yeah.</p> <p>2 Q. What about your hair net?</p> <p>3 A. No.</p> <p>4 Q. Okay. When you worked in pack-out,</p> <p>5 those items that you described for me</p> <p>6 that you wore -- the smock, the apron,</p> <p>7 the sleeves, the gloves -- were they</p> <p>8 provided by CP?</p> <p>9 A. Uh-huh.</p> <p>10 Q. And could you wear the boots from home</p> <p>11 as well?</p> <p>12 A. Yes.</p> <p>13 Q. And the same question for when you --</p> <p>14 those weeks you worked on the debone</p> <p>15 line, you got everything that you wore</p> <p>16 from CP?</p> <p>17 A. Uh-huh.</p> <p>18 Q. But you could wear your boots from</p> <p>19 home?</p> <p>20 A. Yeah.</p> <p>21 Q. When you worked in the box room and you</p> <p>22 wore the smock, the hair net, and the</p> <p>23 boots, which of those items -- I assume</p>  |

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| <p style="text-align: right;">18</p> <p>1 the boots you didn't get daily?</p> <p>2 A. No.</p> <p>3 Q. Did you get a smock every day?</p> <p>4 A. Uh-huh. (Witness nods head.)</p> <p>5 Q. And did you get a hair net every day?</p> <p>6 A. Yeah.</p> <p>7 Q. And when you worked pack-out, what</p> <p>8 items did you get every day?</p> <p>9 A. The same. Well, everything that I</p> <p>10 said -- all the equipment, the apron</p> <p>11 and all.</p> <p>12 Q. Did you get an apron every day --</p> <p>13 A. Yeah.</p> <p>14 Q. -- when you worked pack-out?</p> <p>15 A. Yeah, every day. Well, no, not every</p> <p>16 day, because I took it home, you know.</p> <p>17 Not no apron. Just a smock every day.</p> <p>18 Q. You got a smock and hair net?</p> <p>19 A. Probably a hair net, yeah.</p> <p>20 Q. And gloves every day?</p> <p>21 A. Yeah.</p> <p>22 Q. And you got those same items every day</p> <p>23 when you worked those weeks in debone?</p> | <p style="text-align: right;">20</p> <p>1 room?</p> <p>2 A. Right.</p> <p>3 Q. And started work?</p> <p>4 A. (Witness nods head.)</p> <p>5 Q. And how many breaks did you get?</p> <p>6 A. Two.</p> <p>7 Q. And how long were the breaks?</p> <p>8 A. Thirty minutes each.</p> <p>9 Q. And where did you take your breaks?</p> <p>10 A. In the break room.</p> <p>11 Q. Which break room?</p> <p>12 A. The same as -- the same break room as</p> <p>13 everyone else.</p> <p>14 Q. Okay.</p> <p>15 A. We had the same.</p> <p>16 Q. There was -- or there is a debone break</p> <p>17 room. There's --</p> <p>18 A. The debone break room, yes.</p> <p>19 Q. Okay. There's an evisceration break</p> <p>20 room.</p> <p>21 A. Oh, the debone.</p> <p>22 Q. You went to the debone?</p> <p>23 A. Yeah. There's where the boxes was</p>  |
| <p style="text-align: right;">19</p> <p>1 A. Debone, yeah.</p> <p>2 Q. Now, when you worked in the box room,</p> <p>3 you didn't have to use a knife or</p> <p>4 anything, did you?</p> <p>5 A. No.</p> <p>6 Q. Tell me about your day in the box room.</p> <p>7 A. Just make boxes all day.</p> <p>8 Q. And what time did you have to report</p> <p>9 for work? You started -- your shift</p> <p>10 started at 11 a.m.?</p> <p>11 A. Uh-uh. 11 p.m.</p> <p>12 Q. Or 11 p.m. I'm sorry. What time did</p> <p>13 you report to the plant?</p> <p>14 A. I probably got there, like, ten minutes</p> <p>15 before time we go in.</p> <p>16 Q. Ten minutes?</p> <p>17 A. Yeah, before time to go.</p> <p>18 Q. Did you have to clear security when you</p> <p>19 got there?</p> <p>20 A. No.</p> <p>21 Q. And you left your car and you went and</p> <p>22 picked up your smock and your hair net</p> <p>23 and you just went right up to the box</p>                       | <p style="text-align: right;">21</p> <p>1 made, in the debone area.</p> <p>2 Q. How did you know when it was time for</p> <p>3 you to take your break when you worked</p> <p>4 in the box room?</p> <p>5 A. My -- my supervisor will tell me --</p> <p>6 tell us it's time for break.</p> <p>7 Q. Were you allowed to wear your smock to</p> <p>8 the break room?</p> <p>9 A. No.</p> <p>10 Q. What did you do with it?</p> <p>11 A. Have to take it off and hang it with</p> <p>12 everyone else.</p> <p>13 Q. And where would you hang it?</p> <p>14 A. In the -- down in the -- down where you</p> <p>15 hang the -- hang them up at with the</p> <p>16 debone people.</p> <p>17 Q. Where was the box room located in</p> <p>18 relationship to the debone production</p> <p>19 floor?</p> <p>20 A. Just upstairs. The debone is all in</p> <p>21 one room and the debone is -- well, the</p> <p>22 box room is upstairs from the debone</p> <p>23 floor.</p> |



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| <p style="text-align: right;">22</p> <p>1 Q. So when it was time for you to go on<br/>2 break, you just came down from the<br/>3 second floor?<br/>4 A. Well, let me say this. It's -- okay.<br/>5 It's the pack-out area and debone area<br/>6 on this side. So you walk through the<br/>7 pack-out area to go upstairs to the box<br/>8 room.<br/>9 Q. So when it was time for you to go on<br/>10 break, you came downstairs, walked<br/>11 over, hung up your smock, and went<br/>12 right to the debone break room?<br/>13 A. Yes.<br/>14 Q. You didn't have to wash or anything?<br/>15 A. No.<br/>16 Q. And you didn't have to wait for<br/>17 anything?<br/>18 A. Not then.<br/>19 Q. Okay. And is it fair to say that you<br/>20 got pretty much all of your thirty<br/>21 minutes when you worked in the box room<br/>22 when you went on break?<br/>23 A. Yes.</p> | <p style="text-align: right;">24</p> <p>1 Q. When you worked for a month in<br/>2 pack-out, what time did you usually get<br/>3 to the plant?<br/>4 A. The same.<br/>5 Q. Ten minutes before?<br/>6 A. Yeah.<br/>7 Q. And you went and picked up your smock<br/>8 and hair net?<br/>9 A. Yes.<br/>10 Q. And then what did you do?<br/>11 A. Sat down until time to go in.<br/>12 Q. Pardon?<br/>13 A. I sat down until time to go in.<br/>14 Q. And then you would go in to the<br/>15 production floor and put on your stuff?<br/>16 A. Yes.<br/>17 Q. Once you started putting on your stuff,<br/>18 can you estimate for me how long it<br/>19 took to put it on?<br/>20 A. I'd say, like -- I'd say, like, fifteen<br/>21 minutes.<br/>22 Q. Fifteen minutes?<br/>23 A. Uh-huh.</p>   |
| <p style="text-align: right;">23</p> <p>1 Q. And when you came back, you just walked<br/>2 in the debone production floor, picked<br/>3 up your smock, and went up --<br/>4 A. And go up.<br/>5 Q. -- to the second floor?<br/>6 A. Yes.<br/>7 Q. You didn't have to wait or wash or do<br/>8 anything?<br/>9 A. No.<br/>10 Q. When you were working in the box room,<br/>11 you picked up a smock daily --<br/>12 A. Yeah.<br/>13 Q. -- at the supply desk?<br/>14 A. Uh-huh. (Witness nods head.)<br/>15 Q. Did you have to wait in line?<br/>16 A. Yes.<br/>17 Q. How long did you have to wait?<br/>18 A. Probably ten, five -- probably, say,<br/>19 ten.<br/>20 Q. Pardon?<br/>21 A. About ten minutes.<br/>22 Q. Every day?<br/>23 A. Yeah.</p>  | <p style="text-align: right;">25</p> <p>1 Q. When you were working pack-out when you<br/>2 went onto the floor in the morning, did<br/>3 you have to wash off anything?<br/>4 A. Yes.<br/>5 Q. What did you wash off?<br/>6 A. The apron.<br/>7 Q. The apron?<br/>8 A. Gloves.<br/>9 Q. Your shift started at 11 p.m. when you<br/>10 were in the pack-out area; correct?<br/>11 A. Uh-huh.<br/>12 Q. And how many minutes before 11 p.m.<br/>13 would you go onto the debone -- the<br/>14 floor to go to the pack-out area?<br/>15 A. Could you repeat it?<br/>16 Q. Sure. Pack-out is sort of next to the<br/>17 debone area, is it not?<br/>18 A. Yes.<br/>19 Q. You had to be at your position in the<br/>20 pack-out area ready to work at 11 p.m.;<br/>21 correct?<br/>22 A. Uh-huh.<br/>23 Q. And you told me that after you picked</p> |



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| <p style="text-align: right;">26</p> <p>1 up your stuff at the supply desk, you</p> <p>2 would go to the break room and wait</p> <p>3 until it was time for you to go on the</p> <p>4 floor; correct?</p> <p>5 A. Yes.</p> <p>6 Q. If you had to be at your workstation at</p> <p>7 eleven o'clock in the evening, what</p> <p>8 time would you leave the break room to</p> <p>9 go into the debone area to go to</p> <p>10 pack-out?</p> <p>11 A. Five -- probably five minutes.</p> <p>12 Q. Five minutes?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Now, staying with when you worked for</p> <p>15 the month in pack-out, how did you know</p> <p>16 it was time to take your break?</p> <p>17 A. My supervisor would tell me.</p> <p>18 Q. And tell me what you had to do to get</p> <p>19 from your area back out to the break</p> <p>20 room.</p> <p>21 A. Take off -- take off my supplies. Take</p> <p>22 off my supplies.</p> <p>23 Q. Okay. You took off the apron?</p> | <p style="text-align: right;">28</p> <p>1 Q. And then you walked into the break room</p> <p>2 and took your break?</p> <p>3 A. Yes.</p> <p>4 Q. And your break period was thirty</p> <p>5 minutes?</p> <p>6 A. Yes.</p> <p>7 Q. How much of that thirty minutes did you</p> <p>8 spend in the break room?</p> <p>9 A. Probably, like, twenty minutes.</p> <p>10 Q. Twenty minutes?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Now, how did you know when it was time</p> <p>13 to go back to work in the pack-out</p> <p>14 area?</p> <p>15 A. You see everybody else getting up.</p> <p>16 Q. Saw everybody else get up. Okay. And</p> <p>17 so you -- what did you have to do to</p> <p>18 get back on the line?</p> <p>19 A. Put my stuff back on.</p> <p>20 Q. Did you have to wash it again?</p> <p>21 A. Rinse it again and get back on the</p> <p>22 line.</p> <p>23 Q. And how long did that process take you?</p>   |
| <p style="text-align: right;">27</p> <p>1 A. Yes. Everything.</p> <p>2 Q. Before you took it off, did you wash</p> <p>3 it?</p> <p>4 A. From pack-out? Yeah, rinse down.</p> <p>5 Q. You had to rinse down?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Did you have to wait to rinse?</p> <p>8 A. Yes, because there be a line.</p> <p>9 Q. How long?</p> <p>10 A. Like, say, ten minutes.</p> <p>11 Q. You had to wait ten minutes?</p> <p>12 A. Yeah, because everybody be in line.</p> <p>13 Q. And then you rinsed and you took off</p> <p>14 the apron?</p> <p>15 A. Yes.</p> <p>16 Q. And you took off the smock?</p> <p>17 A. Uh-huh.</p> <p>18 Q. And you took off the sleeves?</p> <p>19 A. Yes.</p> <p>20 Q. And then you --</p> <p>21 A. Gloves.</p> <p>22 Q. And the gloves?</p> <p>23 A. Uh-huh.</p>   | <p style="text-align: right;">29</p> <p>1 A. Say ten minutes, fifteen.</p> <p>2 Q. Ten or fifteen minutes from the time</p> <p>3 you left the break room until you're</p> <p>4 ready to work?</p> <p>5 A. Uh-huh. (Witness nods head.)</p> <p>6 Q. At the end of the -- at the end of the</p> <p>7 day, the pack-out, did you just repeat</p> <p>8 what you did when you went on break</p> <p>9 except you threw your smock in the bin?</p> <p>10 A. Yeah.</p> <p>11 Q. But you washed down your --</p> <p>12 A. Rinse it off.</p> <p>13 Q. -- apron and the sleeves and you folded</p> <p>14 them up and took them with you?</p> <p>15 A. Took them with me.</p> <p>16 Q. Did you store them in a locker while</p> <p>17 you were there?</p> <p>18 A. No.</p> <p>19 Q. You took them home?</p> <p>20 A. (Witness nods head.)</p> <p>21 Q. And how long would it take you from the</p> <p>22 time the shift ended until you left the</p> <p>23 plant? How long did it take you to</p> |

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| <p style="text-align: right;">34</p> <p>1 A. I want to say ten minutes.</p> <p>2 Q. Ten minutes?</p> <p>3 A. (Witness nods head.)</p> <p>4 Q. And at the end of the shift when you</p> <p>5 worked -- those weeks you worked</p> <p>6 debone, did you follow the same routine</p> <p>7 as you did when you were working</p> <p>8 pack-out in terms of washing down?</p> <p>9 A. Yes.</p> <p>10 Q. Getting rid of the smock?</p> <p>11 A. Yes.</p> <p>12 Q. Storing your -- or taking your sleeves</p> <p>13 and your apron home?</p> <p>14 A. Yes.</p> <p>15 Q. And when you were on the debone line,</p> <p>16 approximately how long would it take</p> <p>17 you to do that process, go through that</p> <p>18 process?</p> <p>19 A. Meaning to take it off? Ten minutes.</p> <p>20 About ten minutes.</p> <p>21 Q. Do you know how the company kept track</p> <p>22 of your hours while you were working</p> <p>23 for CP?</p> | <p style="text-align: right;">36</p> <p>1 Q. Do you know anybody that did?</p> <p>2 A. No.</p> <p>3 Q. Have you made any calculations of the</p> <p>4 amount of money that you think you are</p> <p>5 owed in this lawsuit?</p> <p>6 A. No.</p> <p>7 Q. During the year that you worked at CP,</p> <p>8 did you ever work any overtime?</p> <p>9 A. No.</p> <p>10 Q. During the time that you worked for CP,</p> <p>11 did you ever receive any disciplinary</p> <p>12 notices?</p> <p>13 A. No.</p> <p>14 Q. Thank you. That's all I have.</p> <p>15 A. Okay. Thank you.</p> <p>16</p> <p>17 (The deposition of Derinda Johnson</p> <p>18 concluded at 5:40 p.m. on May 21,</p> <p>19 2008.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">35</p> <p>1 A. Time clock.</p> <p>2 Q. What time clock?</p> <p>3 A. In the break room.</p> <p>4 Q. The time clock you punched?</p> <p>5 A. Yeah.</p> <p>6 Q. In all three jobs that you did for CP,</p> <p>7 did you clock in and clock out with the</p> <p>8 time -- with a time card every day?</p> <p>9 A. Yes.</p> <p>10 Q. And was that time clock located in the</p> <p>11 break room?</p> <p>12 A. Uh-huh. Yes.</p> <p>13 Q. And you thought that's how the company</p> <p>14 kept track of your hours worked?</p> <p>15 A. Yes.</p> <p>16 Q. Did you ever complain to any supervisor</p> <p>17 about any problems with your paycheck?</p> <p>18 A. No.</p> <p>19 Q. When you were working there, did you</p> <p>20 keep any record, any notes or diary of</p> <p>21 any kind, in which you recorded the</p> <p>22 number of hours you were working?</p> <p>23 A. No.</p>                    | <p style="text-align: right;">37</p> <p>1 *****</p> <p>2 REPORTER'S CERTIFICATE</p> <p>3 *****</p> <p>4 STATE OF ALABAMA</p> <p>5 COUNTY OF MONTGOMERY</p> <p>6 I do hereby certify that the above</p> <p>7 and foregoing transcript was taken down</p> <p>8 by me in stenotype, and the questions</p> <p>9 and answers thereto were transcribed by</p> <p>10 means of computer-aided transcription,</p> <p>11 and that the foregoing represents a</p> <p>12 true and correct transcript of the</p> <p>13 testimony given by said witness.</p> <p>14 I further certify that I am neither</p> <p>15 of counsel, nor any relation to the</p> <p>16 parties to the action, nor am I anyway</p> <p>17 interested in the result of said case.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 <u>Bridgette W. Mitchell,</u></p> <p>22 Certified Court Reporter and</p> <p>23 Commissioner for the State of</p> <p>Alabama at Large</p> <p>ACCR No. 231 - Expires 9/30/08</p> <p>MY COMMISSION EXPIRES 1/25/2010</p> |

**TAB 25**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,  
Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,  
Defendant.

\* \* \* \* \*

DEPOSITION OF JENNIFER JOHNSON,  
taken pursuant to notice and  
stipulation on behalf of the Defendant,  
at Williams, Pothoff, Williams & Smith,  
125 South Orange Avenue, Eufaula,  
Alabama, before Bridgette Mitchell,  
Shorthand Reporter and Notary Public in  
and for the State of Alabama at Large,  
on May 21, 2008, commencing at  
4:25 p.m.

## MERRILL LEGAL SOLUTIONS

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| <p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Carl E. Underwood, III, Esquire</p> <p>5 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>6 163 W. Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 Jacob A. Kiser, Esquire</p> <p>10 WIGGINS, CHILDS, QUINN &amp; PANTAZIS</p> <p>11 The Kress Building</p> <p>12 301 Nineteenth Street North</p> <p>13 Birmingham, Alabama 35203</p> <p>14</p> <p>15 FOR THE DEFENDANT:</p> <p>16 Gary D. Fry, Esquire</p> <p>17 PELINO &amp; LENTZ</p> <p>18 One Liberty Place</p> <p>19 Thirty-second Floor</p> <p>20 Philadelphia, Pennsylvania 19103</p> <p>21</p> <p>22 ALSO PRESENT:</p> <p>23 Annie Johnson, Derinda Johnson</p>   | <p style="text-align: right;">4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 JENNIFER JOHNSON is hereby waived and</p> <p>6 that said deposition may be introduced</p> <p>7 at the trial of this case or used in</p> <p>8 any other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of JENNIFER JOHNSON is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p style="text-align: right;">5</p> <p>1 JENNIFER JOHNSON, having first</p> <p>2 been duly sworn or affirmed to speak</p> <p>3 the truth, the whole truth, and nothing</p> <p>4 but the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Ms. Johnson, you haven't sat in this</p> <p>8 room, have you, on any of these</p> <p>9 depositions?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. My name is Gary Fry. I'm one of</p> <p>12 the lawyers for Equity Group Eufaula.</p> <p>13 And we have asked you here today to put</p> <p>14 certain questions to you concerning a</p> <p>15 lawsuit, which you and some others have</p> <p>16 brought against the company. Have you</p> <p>17 ever been deposed before?</p> <p>18 A. No, sir.</p> <p>19 Q. Okay. Let me -- I'm sure this has been</p> <p>20 explained to you by your lawyers, but</p> <p>21 just let me say a few things to you</p> <p>22 about the process. I'm going to be</p> <p>23 asking questions and you'll be</p> |

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| <p>6</p> <p>1 providing answers and Bridgette, our<br/>2 court reporter, will be taking down<br/>3 what we say. If you don't understand<br/>4 one of my questions, it's important for<br/>5 you to let me know that so that I can<br/>6 repeat it or rephrase it in a way which<br/>7 you will understand it. And if you<br/>8 don't hear one of my questions or any<br/>9 part of it, it's also important that<br/>10 you let me know that so I can repeat it<br/>11 so that whenever you do answer, we all<br/>12 know that you heard and understood the<br/>13 question. Okay?<br/>14 A. Yes, sir.<br/>15 Q. And the only other instructions that I<br/>16 have are that you verbalize your<br/>17 answers as opposed to shaking or<br/>18 nodding your head. Okay?<br/>19 A. Yes, sir.<br/>20 Q. And that we don't speak overtop of one<br/>21 another.<br/>22 A. Yes, sir.<br/>23 Q. Try not to anticipate my question and</p> | <p>8</p> <p>1 Q. So you were there just for about four<br/>2 months?<br/>3 A. No. I'm sorry. No. I was there a<br/>4 year.<br/>5 Q. A year. So from -- do you think it --<br/>6 A. It was '06. I'm sorry.<br/>7 Q. '06. Okay. No problem. And what was<br/>8 the reason that you left that<br/>9 employment?<br/>10 A. Up mobility.<br/>11 Q. You wanted a better job?<br/>12 A. Better job, yeah.<br/>13 Q. During that year that you -- little<br/>14 over a year that you worked at Equity,<br/>15 what job did you do?<br/>16 A. Well, I was on the debone line.<br/>17 Q. Were you on the debone line the entire<br/>18 time?<br/>19 A. Yes, sir.<br/>20 Q. What shift did you work?<br/>21 A. I worked the first shift.<br/>22 Q. Did you work the first shift the entire<br/>23 time you were working there?</p>          |
| <p>7</p> <p>1 start to answer it before I'm done, and<br/>2 I'll do my best not to interrupt you<br/>3 while you're talking and so she can<br/>4 take it all down. Okay?<br/>5 A. Yes, sir.<br/>6 Q. What's your home address?<br/>7 A. 516 North Street, Cuthbert, Georgia.<br/>8 Q. And your date of birth?<br/>9 A. 2/24/63.<br/>10 Q. And are you currently employed?<br/>11 A. Yes.<br/>12 Q. By whom?<br/>13 A. Beaulieu of America.<br/>14 Q. And where is that located?<br/>15 A. It's in Eufaula.<br/>16 Q. Now, I assume that at some point in<br/>17 time you were employed at the Equity<br/>18 plant in Baker Hill?<br/>19 A. Yes, sir.<br/>20 Q. And when were you employed at that<br/>21 plant?<br/>22 A. November '04 to -- through February of<br/>23 '05.</p>  | <p>9</p> <p>1 A. Yeah. Yes, sir.<br/>2 Q. What were your hours on the first<br/>3 shift?<br/>4 A. From 7:30 to 4:30.<br/>5 Q. That's 7:30 a.m. to 4:30 p.m.?<br/>6 A. P.m.<br/>7 Q. Is that the only shift you ever worked?<br/>8 A. Yes, sir, when I went back.<br/>9 Q. What did you do on the debone line?<br/>10 A. Well, different parts of the chicken,<br/>11 cut, debone thighs, wings and anything<br/>12 on the debone line.<br/>13 Q. And did you rotate among the positions<br/>14 on --<br/>15 A. Yeah.<br/>16 Q. -- the line?<br/>17 A. Yeah, I rotated three times a day.<br/>18 Q. During the time you were employed at<br/>19 Equity, were you a member of the union?<br/>20 A. No, sir.<br/>21 Q. How did you hear about the lawsuit?<br/>22 A. A friend.<br/>23 Q. And what did the friend tell you about</p> |

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| <p style="text-align: right;">10</p> <p>1 it?</p> <p>2 A. She just said that they had a lawsuit</p> <p>3 against the chicken plant and if I</p> <p>4 worked there, I need to see about it.</p> <p>5 Q. Did you do any follow-up investigation</p> <p>6 as to what the case was about?</p> <p>7 A. Yeah. I followed up on it and then I</p> <p>8 also heard it on the TV.</p> <p>9 Q. And what is your understanding as to</p> <p>10 what your claim is in this lawsuit?</p> <p>11 A. To get paid for the time that I was</p> <p>12 there.</p> <p>13 Q. So I take it that you believe that you</p> <p>14 were there for periods for which you</p> <p>15 were not paid?</p> <p>16 A. Yes.</p> <p>17 Q. And that you did work for which you</p> <p>18 were not paid; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. What work did you do for which you were</p> <p>21 not paid?</p> <p>22 A. Well, the -- the break time, it wasn't</p> <p>23 long enough.</p> | <p style="text-align: right;">12</p> <p>1 gloves, rubber gloves, hair nets,</p> <p>2 earplugs, boots, and glasses.</p> <p>3 Q. Goggles?</p> <p>4 A. Goggles, yes.</p> <p>5 Q. Anything else?</p> <p>6 A. No, that's it.</p> <p>7 MR. KISER: I don't know if</p> <p>8 they mentioned it earlier, but we're</p> <p>9 going to have a standing objection that</p> <p>10 it's not -- on the definition of</p> <p>11 whether it's clothing or PPE or how we</p> <p>12 refer to it. So that's --</p> <p>13 MR. FRY:: We can call it</p> <p>14 anything we want.</p> <p>15 MR. KISER: Anything we want.</p> <p>16 MR. FRY:: Everybody knows what</p> <p>17 we're talking about.</p> <p>18 Q. Which of these items, to your</p> <p>19 understanding, were you required to</p> <p>20 wear?</p> <p>21 A. I was required to wear all of them.</p> <p>22 Q. And who told you that?</p> <p>23 A. Well, that was in our -- when I got</p>                       |
| <p style="text-align: right;">11</p> <p>1 Q. Anything else?</p> <p>2 A. I can't remember. I mean, I don't</p> <p>3 recall or remember --</p> <p>4 Q. Okay.</p> <p>5 A. -- at this time.</p> <p>6 Q. Have you ever been involved in any</p> <p>7 other lawsuits?</p> <p>8 A. No. I don't recall.</p> <p>9 Q. Did you review any documents in</p> <p>10 preparation for coming here today?</p> <p>11 A. I don't understand.</p> <p>12 Q. Did you look at any papers to prepare</p> <p>13 yourself to come here to be deposed</p> <p>14 today?</p> <p>15 A. Oh, no, sir.</p> <p>16 Q. Did you talk with anyone about coming</p> <p>17 here today except your lawyers?</p> <p>18 A. No, sir.</p> <p>19 Q. Now, can you identify for me what --</p> <p>20 those articles of clothing that you</p> <p>21 wore on the debone line when you worked</p> <p>22 at Equity?</p> <p>23 A. Yes. A smock, apron, sleeves, cotton</p>  | <p style="text-align: right;">13</p> <p>1 hired, that's what I was told and they</p> <p>2 issued them out to us.</p> <p>3 Q. Did you go through an orientation</p> <p>4 meeting when you were hired?</p> <p>5 A. Yes.</p> <p>6 Q. And were you given a handbook?</p> <p>7 A. Yes, I was.</p> <p>8 Q. From what you were able to observe in</p> <p>9 the debone loom, did the other</p> <p>10 employees wear everything that you've</p> <p>11 just identified?</p> <p>12 A. Correct.</p> <p>13 Q. Including the plastic sleeves?</p> <p>14 A. Yeah, sleeves. Yeah.</p> <p>15 Q. Which of these items that you have</p> <p>16 identified for me were given to you to</p> <p>17 use by Equity?</p> <p>18 A. You mean -- all of them was given to us</p> <p>19 by Equity.</p> <p>20 Q. And which of these items that you</p> <p>21 identified for me did you pick up on a</p> <p>22 daily basis?</p> <p>23 A. The hair nets. The cotton gloves or</p> |



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|---|---|
| <p style="text-align: right;">14</p> <p>1 rubber gloves, if you needed them. But</p> <p>2 that's -- them.</p> <p>3 Q. What about the smock?</p> <p>4 A. Oh, yeah, smocks also. I'm sorry.</p> <p>5 Q. And where did you pick up these items?</p> <p>6 A. At the supply room.</p> <p>7 Q. And when did you pick them up?</p> <p>8 A. As soon as I have -- as soon as I got</p> <p>9 to work.</p> <p>10 Q. Did you have to wait in line at the</p> <p>11 supply --</p> <p>12 A. Yes.</p> <p>13 Q. -- room?</p> <p>14 A. Yes, sir.</p> <p>15 Q. How long would you have to wait, if you</p> <p>16 had to guess, estimate? You don't need</p> <p>17 to guess.</p> <p>18 A. About --</p> <p>19 MR. KISER: Yeah, don't guess.</p> <p>20 A. Fifteen minutes.</p> <p>21 Q. Is that an average?</p> <p>22 A. Yes, sir.</p> <p>23 Q. So you had to wait fifteen minutes</p>   | <p style="text-align: right;">16</p> <p>1 Q. What about your apron and the sleeves?</p> <p>2 A. The apron and the sleeves you could</p> <p>3 take home, wash them and take them --</p> <p>4 take them home.</p> <p>5 Q. Is that what you did?</p> <p>6 A. Yeah.</p> <p>7 Q. Did they give you a locker you could</p> <p>8 have put them in?</p> <p>9 A. Yeah, but -- yeah.</p> <p>10 Q. So you had --</p> <p>11 A. But I -- I'd rather take mine home and</p> <p>12 wash them.</p> <p>13 Q. So you had a choice, keep them there or</p> <p>14 take them home?</p> <p>15 A. Yes.</p> <p>16 Q. When you went to work in the debone</p> <p>17 floor on the first shift during the</p> <p>18 time you worked at Equity, where did</p> <p>19 you put on the smock?</p> <p>20 A. In the debone area.</p> <p>21 Q. On the production floor?</p> <p>22 A. Oh, no. They had a rack. You come in</p> <p>23 the double doors. You go to the right</p>                    |
| <p style="text-align: right;">15</p> <p>1 every day to pick up the stuff?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Which of these items which you have</p> <p>4 identified for me were you able to wear</p> <p>5 from home?</p> <p>6 A. Wear from home?</p> <p>7 Q. Yes.</p> <p>8 A. The boots.</p> <p>9 Q. Just the boots?</p> <p>10 A. Well, I had to wear the earplugs and</p> <p>11 the hair net.</p> <p>12 Q. Could you wear those from home?</p> <p>13 A. Yeah.</p> <p>14 Q. The things that you didn't take home,</p> <p>15 boots and -- the things that you</p> <p>16 couldn't wear from home, the things</p> <p>17 that stayed in the plant, where did you</p> <p>18 put them when you weren't working?</p> <p>19 A. Well, the smocks, we put them in a bin</p> <p>20 every day.</p> <p>21 Q. Okay.</p> <p>22 A. They had a bin outside where you could</p> <p>23 put the smocks at the end of the day.</p> | <p style="text-align: right;">17</p> <p>1 or left. They had a rack.</p> <p>2 Q. It was in the same room that the line</p> <p>3 was in?</p> <p>4 A. It's in the same area, the same room.</p> <p>5 Q. And is that where you put on the</p> <p>6 plastic apron?</p> <p>7 A. Plastic apron, yeah.</p> <p>8 Q. And the plastic sleeves as well?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And is that where you put on your</p> <p>11 cotton gloves and the liners?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Now, when you went into the production</p> <p>14 floor, before you put these items on,</p> <p>15 you already had your boots and your</p> <p>16 hair net and your ear covering in; is</p> <p>17 that correct?</p> <p>18 A. Correct.</p> <p>19 Q. And was it true when you were working</p> <p>20 there that you were not permitted to</p> <p>21 wear your smock, your apron, and your</p> <p>22 sleeves outside of the production area?</p> <p>23 A. Correct.</p> |



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| <p style="text-align: right;">18</p> <p>1 Q. And when did you put these items on?</p> <p>2 A. When I entered -- when I entered the</p> <p>3 debone section.</p> <p>4 Q. And how soon before you actually</p> <p>5 started cutting the chickens would you</p> <p>6 put these items on?</p> <p>7 A. Could you repeat -- I mean, could</p> <p>8 you -- I don't understand what you</p> <p>9 said.</p> <p>10 Q. Okay. You've told us that you put the</p> <p>11 smock and the apron and the sleeves on</p> <p>12 in the debone area; correct?</p> <p>13 A. Correct.</p> <p>14 Q. And you put them on by the racks that</p> <p>15 are in the debone area; is that</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. And did you put any of this stuff on</p> <p>19 while you were walking to the line?</p> <p>20 A. No.</p> <p>21 Q. Okay. Now, my question is, how soon</p> <p>22 after you put these items on did you</p> <p>23 start cutting chickens?</p> | <p style="text-align: right;">20</p> <p>1 Q. Was it your understanding that you were</p> <p>2 required to stand there for fifteen</p> <p>3 minutes without doing anything?</p> <p>4 A. I don't understand.</p> <p>5 Q. Well, you say you put the -- your smock</p> <p>6 and everything on in the production</p> <p>7 room and then you went to the line and</p> <p>8 you stood there for fifteen minutes</p> <p>9 without doing anything. Was it your</p> <p>10 understanding that you were required to</p> <p>11 do that?</p> <p>12 A. Well, I don't know.</p> <p>13 Q. You don't know?</p> <p>14 A. No.</p> <p>15 Q. I mean, could you have waited a little</p> <p>16 longer in going to go into the</p> <p>17 production room and put the smock and</p> <p>18 other items on and then go right up to</p> <p>19 the line and have chickens come down a</p> <p>20 minute later? Could you have done</p> <p>21 that?</p> <p>22 A. Could you repeat the question? I'm</p> <p>23 sorry.</p> |
| <p style="text-align: right;">19</p> <p>1 A. I would say about fifteen minutes</p> <p>2 later.</p> <p>3 Q. Fifteen minutes later?</p> <p>4 A. Yeah.</p> <p>5 Q. And what would you do during that</p> <p>6 fifteen-minute time?</p> <p>7 A. I would stand on the line. You had to</p> <p>8 wait for every -- other people to get</p> <p>9 to the line.</p> <p>10 Q. So you were standing on the line for</p> <p>11 fifteen minutes without doing anything?</p> <p>12 A. Yeah.</p> <p>13 Q. And you were waiting for other people</p> <p>14 to get there to their --</p> <p>15 A. Yeah.</p> <p>16 Q. -- position -- to their job post. Is</p> <p>17 that what you're saying?</p> <p>18 A. Yeah.</p> <p>19 Q. Were you considered to be an early</p> <p>20 employee and the others -- were the --</p> <p>21 were the others considered late?</p> <p>22 A. No. I wasn't early. I would just, you</p> <p>23 know, go in, put on this, go stand up.</p>           | <p style="text-align: right;">21</p> <p>1 Q. I think we can get it better in another</p> <p>2 way. We'll come back to it. Did you</p> <p>3 use a knife in your job on the debone</p> <p>4 line?</p> <p>5 A. Sometimes, yeah.</p> <p>6 Q. And you used a knife to cut the</p> <p>7 chicken; correct?</p> <p>8 A. Yes.</p> <p>9 Q. And how did you get the knife when you</p> <p>10 had to use it?</p> <p>11 A. The -- it would be on the line when we</p> <p>12 get there.</p> <p>13 Q. You wouldn't have to go anywhere to get</p> <p>14 it?</p> <p>15 A. No.</p> <p>16 Q. It would be right there at your</p> <p>17 workstation?</p> <p>18 A. Yes.</p> <p>19 Q. And you weren't responsible for</p> <p>20 maintaining the knife, were you,</p> <p>21 sharpening it and that sort of thing?</p> <p>22 A. No, sir.</p> <p>23 Q. Besides a knife, did you use any other</p>   |

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| <p style="text-align: right;">22</p> <p>1 tools?</p> <p>2 A. Scissors. Scissors.</p> <p>3 Q. And were the scissors provided to you</p> <p>4 while you were on the line?</p> <p>5 A. Yes.</p> <p>6 Q. I think you told me that your shift</p> <p>7 started at 7:30 in the morning.</p> <p>8 A. Yeah.</p> <p>9 Q. And was it your understanding that you</p> <p>10 were required to be at your workstation</p> <p>11 on the line at 7:30?</p> <p>12 A. Yeah, or before. Yeah.</p> <p>13 Q. How many minutes before 7:30 did you</p> <p>14 enter the production area?</p> <p>15 A. About 7:20, something like that.</p> <p>16 Q. Seven-twenty?</p> <p>17 A. Yeah.</p> <p>18 Q. How many breaks did you get during the</p> <p>19 day?</p> <p>20 A. Two.</p> <p>21 Q. And how long were the breaks?</p> <p>22 A. It was thirty minutes.</p> <p>23 Q. How did you know it was time to go on</p>  | <p style="text-align: right;">24</p> <p>1 you had to be there first?</p> <p>2 A. Yes.</p> <p>3 Q. And the people that were at the end of</p> <p>4 the line, they could come back a little</p> <p>5 later? Did that happen?</p> <p>6 A. No.</p> <p>7 Q. Everybody came back at once?</p> <p>8 A. Yeah.</p> <p>9 Q. Is that what your testimony is?</p> <p>10 A. (Witness nods head.)</p> <p>11 Q. You have to --</p> <p>12 A. Oh, I'm sorry. Yeah, everybody was</p> <p>13 there.</p> <p>14 Q. What time did you usually arrive on the</p> <p>15 property of the company? What time did</p> <p>16 you drive in? Did you drive to work?</p> <p>17 A. Yes.</p> <p>18 Q. And what time did you usually try to</p> <p>19 get there?</p> <p>20 A. I usually get there about -- about</p> <p>21 seven.</p> <p>22 Q. Seven?</p> <p>23 A. Yes.</p>  |
| <p style="text-align: right;">23</p> <p>1 break?</p> <p>2 A. Well, everybody was -- started leaving</p> <p>3 the line or something -- started</p> <p>4 leaving the line, so then everybody</p> <p>5 started leaving the line and would go</p> <p>6 out.</p> <p>7 Q. So you knew it was time for your break</p> <p>8 when everybody else started to leave?</p> <p>9 A. Yeah, when they started leaving the</p> <p>10 line and then it was coming down to me,</p> <p>11 everybody would leave, go out.</p> <p>12 Q. Am I correct that you were not</p> <p>13 permitted to leave until the last bird</p> <p>14 passed your station?</p> <p>15 A. Correct.</p> <p>16 Q. So if you were at the beginning of the</p> <p>17 line, you were permitted to go on break</p> <p>18 before the people at the end of the</p> <p>19 line; is that correct?</p> <p>20 A. Correct.</p> <p>21 Q. And when you came back from the break,</p> <p>22 did it happen the reverse way, that if</p> <p>23 you were at the beginning of the line</p> | <p style="text-align: right;">25</p> <p>1 Q. Did you have to clear any security to</p> <p>2 get into the building?</p> <p>3 A. No, sir.</p> <p>4 Q. Tell me what you did from the time you</p> <p>5 got out of your car until you got to</p> <p>6 your workstation.</p> <p>7 A. Well, get all my stuff out of the car,</p> <p>8 go in the break room, go to the locker,</p> <p>9 get all the stuff out of there, go up</p> <p>10 to the -- what do you call it? -- the</p> <p>11 supply room and get my supplies, go</p> <p>12 back to the break room and get my other</p> <p>13 stuff.</p> <p>14 Q. What stuff did you get out of your</p> <p>15 locker?</p> <p>16 A. My -- my boots. If I didn't take them</p> <p>17 home, I'll get my boots out and put my</p> <p>18 bag in -- in the -- in the break -- in</p> <p>19 the locker and go and get my -- the</p> <p>20 stuff for what I needed to go on the</p> <p>21 line.</p> <p>22 Q. And then what did you do?</p> <p>23 A. Then after I get my stuff from the</p> |

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| <p style="text-align: right;">26</p> <p>1 line, I'll go back to the break room<br/> 2 and try to find me something to eat<br/> 3 before I go on the line. Then go on<br/> 4 the line -- after I eat, I go on the<br/> 5 line -- get ready to go on the line, go<br/> 6 in -- go inside the production area so<br/> 7 I can get ready to get on the line.<br/> 8 Q. So you -- before you went into the<br/> 9 production area after you got your<br/> 10 supplies, you went to the break room<br/> 11 and had something to eat?<br/> 12 A. Yeah.<br/> 13 Q. And were there other people in there<br/> 14 eating?<br/> 15 A. Yeah.<br/> 16 Q. And talking and doing other things?<br/> 17 A. Yes.<br/> 18 Q. How much time would you normally have<br/> 19 to wait in the break room before you<br/> 20 had to go out into the production<br/> 21 floor?<br/> 22 A. Probably about -- about ten minutes.<br/> 23 Q. And what time did you usually try and</p> | <p style="text-align: right;">28</p> <p>1 three minutes to walk from here to the<br/> 2 break room.<br/> 3 Q. The break room is right across the hall<br/> 4 from the production floor; correct?<br/> 5 A. Yeah. It shouldn't take you that long<br/> 6 to get --<br/> 7 Q. It doesn't take very long, does it?<br/> 8 A. Yeah.<br/> 9 Q. And to get into the production floor,<br/> 10 you had to go through a foot bath?<br/> 11 A. Yeah.<br/> 12 Q. Once you got into the production floor,<br/> 13 how long did it take you to put on your<br/> 14 smock and apron and sleeves?<br/> 15 A. To put all of it on?<br/> 16 Q. Yeah.<br/> 17 A. I'd say about fifteen minutes.<br/> 18 Q. Fifteen minutes?<br/> 19 A. Because you have to -- yeah, about<br/> 20 fifteen minutes.<br/> 21 Q. Tell me, now, what you had to do when<br/> 22 it was time for you to take your break.<br/> 23 What did you have to wash and/or take</p>                              |
| <p style="text-align: right;">27</p> <p>1 go from the break room into the<br/> 2 production floor?<br/> 3 A. Well, I tried to get there about twenty<br/> 4 after.<br/> 5 Q. Twenty after, so 7:20?<br/> 6 A. Yes.<br/> 7 Q. And then once you got -- went to the<br/> 8 production -- or once you got into the<br/> 9 department, that's when you put on your<br/> 10 smock, your apron --<br/> 11 A. Everything.<br/> 12 Q. -- and your sleeves?<br/> 13 A. Yes.<br/> 14 Q. And were you required to perform any<br/> 15 washing of anything at the start of the<br/> 16 day?<br/> 17 A. No.<br/> 18 Q. How long do you recall it taking you to<br/> 19 walk from the break room into the<br/> 20 production room?<br/> 21 A. From the break room to the production<br/> 22 room? Shouldn't be no more than<br/> 23 about -- about three -- five minutes or</p>   | <p style="text-align: right;">29</p> <p>1 off before you were permitted to leave<br/> 2 the area?<br/> 3 A. Well, wash your -- go over to the sink,<br/> 4 wash your -- wash -- you know, you're<br/> 5 covered in all this stuff. You have to<br/> 6 just wash it off and clean yourself up<br/> 7 before and -- clean yourself up with --<br/> 8 clean it off or you just brush it off,<br/> 9 you know, make sure it ain't all mushy,<br/> 10 and go to the stand and take it all<br/> 11 off, start taking it all off after you<br/> 12 done washed it all off you.<br/> 13 Q. How long did it take you to wash it off<br/> 14 and then take the items off?<br/> 15 A. About fifteen minutes, I reckon.<br/> 16 Q. Fifteen minutes?<br/> 17 A. Yeah.<br/> 18 Q. And then you could go to the break<br/> 19 room?<br/> 20 A. Yes.<br/> 21 Q. What items did you keep on when you<br/> 22 went to the break room?<br/> 23 A. The -- the -- your boots, your</p> |

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| <p style="text-align: right;">30</p> <p>1 earplugs, and your hair net.</p> <p>2 Q. From what you were able to observe, did</p> <p>3 all of the employees in the debone room</p> <p>4 wash off before they took off their</p> <p>5 aprons?</p> <p>6 A. Yeah. Yes, sir.</p> <p>7 Q. Let's go the reverse way now. What did</p> <p>8 you have to do when your break time was</p> <p>9 over to get back on the line?</p> <p>10 A. Go in, put -- put everything back on,</p> <p>11 and try to get to the line. You had to</p> <p>12 put it all back on -- smock, apron,</p> <p>13 sleeves, gloves, cotton gloves,</p> <p>14 everything. You had to put it back on,</p> <p>15 try to get to the line.</p> <p>16 Q. Did you have to wash it again?</p> <p>17 A. No.</p> <p>18 Q. And approximately how much time did it</p> <p>19 take you to put the stuff back on?</p> <p>20 A. I'd say about ten minutes.</p> <p>21 Q. How much time do you recall that you</p> <p>22 had to spend in the break room?</p> <p>23 A. About fifteen minutes.</p>      | <p style="text-align: right;">32</p> <p>1 Q. Pardon?</p> <p>2 A. A time clock.</p> <p>3 Q. The time clock?</p> <p>4 A. Time clock.</p> <p>5 Q. What was your understanding as to when</p> <p>6 the time started for which you were to</p> <p>7 be paid?</p> <p>8 A. I don't know.</p> <p>9 Q. And do you have any understanding as to</p> <p>10 when the time stopped, when you stopped</p> <p>11 being paid?</p> <p>12 A. No, I don't.</p> <p>13 Q. Did you ever complain to any of your</p> <p>14 supervisors about your pay?</p> <p>15 A. No.</p> <p>16 Q. Were you paid every week?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And did you -- when you got your check,</p> <p>19 did you look at the payroll information</p> <p>20 that was provided on the stub?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And did you ever have any reason to</p> <p>23 think that those paychecks were</p>              |
| <p style="text-align: right;">31</p> <p>1 Q. Now, at the end of the day when you're</p> <p>2 done, describe for me what you had to</p> <p>3 do to get out of the plant in terms of</p> <p>4 cleaning up.</p> <p>5 A. Washing off. Wash your smocks and</p> <p>6 stuff off. You would wash the apron</p> <p>7 off and the sleeves off and the gloves</p> <p>8 and you go to -- to the rack and take</p> <p>9 them off. I would fold them up and</p> <p>10 take them on outside. I'd ball them</p> <p>11 up -- I'd ball them up and take them on</p> <p>12 outside and put them in -- throw the</p> <p>13 smock over in the bin and get the -- my</p> <p>14 sleeves and apron and take it home with</p> <p>15 me.</p> <p>16 Q. How long did that process take you?</p> <p>17 A. That was about fifteen minutes.</p> <p>18 Q. Fifteen minutes?</p> <p>19 A. Uh-huh.</p> <p>20 Q. What is -- Ms. Johnson, what is your</p> <p>21 understanding of how the company keeps</p> <p>22 track of the time which you worked?</p> <p>23 A. Time clock.</p> | <p style="text-align: right;">33</p> <p>1 inaccurate?</p> <p>2 A. I don't know.</p> <p>3 Q. When you were at Equity, did you keep</p> <p>4 any kind of diary or notes or other</p> <p>5 document that showed the amount of time</p> <p>6 that you believe that you had worked</p> <p>7 for each day?</p> <p>8 A. No, sir.</p> <p>9 Q. Do you know anyone who did?</p> <p>10 A. No, sir.</p> <p>11 Q. Have you made any calculations or come</p> <p>12 up with any numbers as to the amount of</p> <p>13 money you think you're owed in this</p> <p>14 case?</p> <p>15 A. No, sir.</p> <p>16 Q. During the time that you worked there,</p> <p>17 were you ever asked or required to work</p> <p>18 overtime?</p> <p>19 A. No, sir.</p> <p>20 Q. You never worked overtime?</p> <p>21 A. I don't know, sir.</p> <p>22 MR. KISER: Do you understand</p> <p>23 what he's asking about overtime? I</p> |

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| <p style="text-align: right;">34</p> <p>1 mean, as far as the --</p> <p>2 THE WITNESS: No, sir.</p> <p>3 Q. Were you ever asked to -- did you work,</p> <p>4 basically, an eight-hour day? Is it</p> <p>5 your understanding you were paid --</p> <p>6 A. Yes.</p> <p>7 Q. -- for an eight-hour day?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Were you ever asked to stay later and</p> <p>10 work more than eight hours?</p> <p>11 A. No. Just -- well, just once. Once.</p> <p>12 Q. Once you were asked to work later</p> <p>13 because there was more work to do?</p> <p>14 A. Yes, once.</p> <p>15 Q. And were you paid overtime for that, if</p> <p>16 you know?</p> <p>17 A. Yes, sir.</p> <p>18 Q. You were?</p> <p>19 A. Yeah.</p> <p>20 Q. During the time that you worked at</p> <p>21 Equity, were you ever written up for</p> <p>22 any rule infractions?</p> <p>23 A. Yes, sir.</p> | <p style="text-align: right;">36</p> <p>1 * * * * *</p> <p>2 REPORTER'S CERTIFICATE</p> <p>3 * * * * *</p> <p>4 STATE OF ALABAMA</p> <p>5 COUNTY OF MONTGOMERY</p> <p>6 I do hereby certify that the above</p> <p>7 and foregoing transcript was taken down</p> <p>8 by me in stenotype, and the questions</p> <p>9 and answers thereto were transcribed by</p> <p>10 means of computer-aided transcription,</p> <p>11 and that the foregoing represents a</p> <p>12 true and correct transcript of the</p> <p>13 testimony given by said witness.</p> <p>14 I further certify that I am neither</p> <p>15 of counsel, nor any relation to the</p> <p>16 parties to the action, nor am I anyway</p> <p>17 interested in the result of said case.</p> <p>18</p> <p>19</p> <p>20 <u>Bridgette W. Mitchell,</u></p> <p>21 Certified Court Reporter and</p> <p>22 Commissioner for the State of</p> <p>23 Alabama at Large</p> <p>ACCR No. 231 - Expires 9/30/08</p> <p>MY COMMISSION EXPIRES 1/25/2010</p> |
| <p style="text-align: right;">35</p> <p>1 Q. And what were you written up for?</p> <p>2 A. Being late to the line.</p> <p>3 Q. How many times?</p> <p>4 A. I think twice. Twice.</p> <p>5 Q. Anything else?</p> <p>6 A. That's it.</p> <p>7 Q. That's all. Thank you.</p> <p>8</p> <p>9 (The deposition of Jennifer Johnson</p> <p>10 concluded at 5:02 p.m. on May 21,</p> <p>11 2008.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |   |

**TAB 26**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,  
Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,  
Defendant.

\* \* \* \* \*

DEPOSITION OF PATRICIA JONES, taken  
pursuant to notice and stipulation on  
behalf of the Defendant, at Williams,  
Pothoff, Williams & Smith, 125 South  
Orange Avenue, Eufaula, Alabama, before  
Bridgette Mitchell, Shorthand Reporter  
and Notary Public in and for the State  
of Alabama at Large, on May 21, 2008,  
commencing at 6:35 p.m.



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| <p>2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Jacob A. Kiser, Esquire</p> <p>5 WIGGINS, CHILDS, QUINN &amp; PANTAZIS</p> <p>6 The Kress Building</p> <p>7 301 Nineteenth Street North</p> <p>8 Birmingham, Alabama 35203</p> <p>9</p> <p>10</p> <p>11 FOR THE DEFENDANT:</p> <p>12 Gary D. Fry, Esquire</p> <p>13 PELINO &amp; LENTZ</p> <p>14 One Liberty Place</p> <p>15 Thirty-second Floor</p> <p>16 Philadelphia, Pennsylvania 19103</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p>4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 PATRICIA JONES is hereby waived and</p> <p>6 that said deposition may be introduced</p> <p>7 at the trial of this case or used in</p> <p>8 any other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p>3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of PATRICIA JONES is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p>5</p> <p>1 PATRICIA JONES, having first been</p> <p>2 duly sworn or affirmed to speak the</p> <p>3 truth, the whole truth, and nothing but</p> <p>4 the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Ms. Jones, my name is Gary Fry. I'm</p> <p>8 one of the lawyers for Equity Group</p> <p>9 Eufaula in connection with a lawsuit</p> <p>10 that you and a bunch of other folks</p> <p>11 have brought against it. And we have</p> <p>12 asked you to come here today to answer</p> <p>13 some questions for us with respect to</p> <p>14 that lawsuit.</p> <p>15 A. Okay.</p> <p>16 Q. Have you ever been deposed before?</p> <p>17 A. No.</p> <p>18 Q. Okay. It's pretty simple. I'll ask</p> <p>19 the questions; you'll supply the</p> <p>20 answers; and Bridgette, the court</p> <p>21 reporter, will take down what we both</p> <p>22 say.</p> <p>23 A. Okay.</p> |



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| <p>6</p> <p>1 Q. If you don't understand my question,<br/>2 it's important that you let me know<br/>3 that so I can rephrase it so you will<br/>4 understand it, hopefully.<br/>5 A. Okay.<br/>6 Q. If you don't hear my question or you<br/>7 don't hear a portion of it, let me know<br/>8 and I'll repeat it.<br/>9 A. Okay.<br/>10 Q. If you answer any question, I will<br/>11 assume that you understood and heard<br/>12 and answered appropriately. Any answer<br/>13 that you give must be verbal because --<br/>14 A. Okay.<br/>15 Q. -- she can't take down nods of the<br/>16 head. Okay? And last -- the last rule<br/>17 is that we shouldn't talk over one<br/>18 another --<br/>19 A. Okay.<br/>20 Q. -- because she can only -- she can only<br/>21 take down one of us at a time. Okay?<br/>22 A. Okay.<br/>23 Q. What's your home address?</p> | <p>8</p> <p>1 A. They were getting ready to change over<br/>2 when I first started.<br/>3 Q. When you first started to work out<br/>4 there for CP, what job did you do?<br/>5 A. Bone sampler.<br/>6 Q. And how long did you do that job?<br/>7 A. I'm not quite sure. Maybe -- maybe<br/>8 close to a year.<br/>9 Q. And what did you do after being a bone<br/>10 sampler?<br/>11 A. I was in HACCP.<br/>12 Q. Sorry?<br/>13 A. HACCP. It's part of QC, but it's a<br/>14 HACCP team.<br/>15 Q. Okay. Explain that to me. What did<br/>16 you do?<br/>17 A. We would have to go through and check<br/>18 and make sure that everybody was<br/>19 wearing the proper equipment that --<br/>20 the PPE that we had to wear, the<br/>21 earplugs, gloves, beard net, make sure<br/>22 that everybody had on what they were<br/>23 supposed to, no meat on the floor, you</p> |
| <p>7</p> <p>1 A. P.O. Box 1361.<br/>2 Q. What --<br/>3 A. You want the physical address? 311<br/>4 Gambridge Road.<br/>5 Q. What town?<br/>6 A. Eufaula.<br/>7 Q. Eufaula. What's your date of birth?<br/>8 A. July 5, 1961.<br/>9 Q. Are you currently employed?<br/>10 A. Yes.<br/>11 Q. By whom?<br/>12 A. Crowne Healthcare.<br/>13 Q. At one point in time, you worked at the<br/>14 Equity plant in Baker Hill?<br/>15 A. Yes.<br/>16 Q. And what period of time did you work<br/>17 there?<br/>18 A. April 2003 to November 2005.<br/>19 Q. So during that period, you worked for<br/>20 both CP and Equity?<br/>21 A. They was getting ready to change over<br/>22 when I first started.<br/>23 Q. Pardon?</p>  | <p>9</p> <p>1 know, over-excessive amount of meat on<br/>2 the floor, checked different areas in<br/>3 the plant.<br/>4 Q. So you were a safety inspector?<br/>5 A. Yeah.<br/>6 Q. Is that fair to say?<br/>7 A. I guess.<br/>8 Q. After you -- after you were a bone<br/>9 sampler and you went to work for --<br/>10 A. HACCP.<br/>11 Q. -- HACC --<br/>12 A. HACCP.<br/>13 Q. HACCP, H-A-S-I-P?<br/>14 A. Uh-uh. H-A-C-C-P.<br/>15 Q. H-A-C-C-P. And that's -- do you know<br/>16 what those letters stand for?<br/>17 A. Hazardous control -- I can't remember.<br/>18 Q. Okay.<br/>19 A. I know it, but I can't remember.<br/>20 Q. Let's just call you a safety person.<br/>21 Okay?<br/>22 A. Okay.<br/>23 Q. How long did you work as a safety</p>   |

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| <p style="text-align: right;">10</p> <p>1 person?</p> <p>2 A. I can't -- I can't remember. It was --</p> <p>3 maybe I did half and half from the time</p> <p>4 that I was there.</p> <p>5 Q. Okay. You were there from April of '03</p> <p>6 to November of '05. That's about a</p> <p>7 year and a half?</p> <p>8 A. Uh-huh. (Witness nods head.)</p> <p>9 Q. And --</p> <p>10 A. And -- I'm not -- I'm not sure.</p> <p>11 Q. When you were working as a HACCP</p> <p>12 person, on what basis were you paid?</p> <p>13 A. I don't understand.</p> <p>14 Q. Well, were you paid on the basis of a</p> <p>15 time clock or were you paid a flat rate</p> <p>16 for eight hours?</p> <p>17 A. Time clock.</p> <p>18 Q. Time clock. Was it the same kind of</p> <p>19 arrangement that you were paid when you</p> <p>20 were a bone sampler?</p> <p>21 A. Yes.</p> <p>22 Q. And are those the only two jobs that</p> <p>23 you worked at the plant?</p>                         | <p style="text-align: right;">12</p> <p>1 seventy-five. It was eight something,</p> <p>2 eight sixty-five or eight seventy-five.</p> <p>3 Q. And for what reason did you leave your</p> <p>4 employment out at the Equity plant?</p> <p>5 A. It was so far out and my mom had</p> <p>6 dementia, so I wanted to be in town so</p> <p>7 I could get to her quicker.</p> <p>8 Q. When you were working there, were you a</p> <p>9 member of the union?</p> <p>10 A. Well, I joined and they started taking</p> <p>11 it out of my check, but then they said</p> <p>12 that bone samplers couldn't be union or</p> <p>13 part of the union.</p> <p>14 Q. So were you ever a part of the union</p> <p>15 there?</p> <p>16 A. Well, I paid a couple of payments, but</p> <p>17 they said that we couldn't be part of</p> <p>18 it, so they stopped taking it.</p> <p>19 Q. So you never attended any union</p> <p>20 meetings?</p> <p>21 A. Yeah.</p> <p>22 Q. You did attend? How many?</p> <p>23 A. About three.</p> |
| <p style="text-align: right;">11</p> <p>1 A. Yes.</p> <p>2 Q. What shift did you work?</p> <p>3 A. First.</p> <p>4 Q. The whole time?</p> <p>5 A. Yes.</p> <p>6 Q. What did you do as a bone sampler?</p> <p>7 A. We would stand on the line. They</p> <p>8 had -- like, each line had a little</p> <p>9 table set up and you have a person on</p> <p>10 each side and the meat rolls down. You</p> <p>11 had to catch it and take it out and put</p> <p>12 it on a pan and pick it up and search</p> <p>13 it for bones.</p> <p>14 Q. And what was your rate of pay as a bone</p> <p>15 sampler?</p> <p>16 A. When I -- when I started, I think it</p> <p>17 was, like, six -- six something. It</p> <p>18 was, like, maybe six ninety-five,</p> <p>19 something like that. I'm not quite</p> <p>20 sure. I can't quite remember.</p> <p>21 Q. What were you making at the end when</p> <p>22 you were working for HACCP?</p> <p>23 A. Eight -- eight sixty-five -- eight</p> | <p style="text-align: right;">13</p> <p>1 Q. Now, you're a -- when were those union</p> <p>2 meetings? Do you recall?</p> <p>3 A. I can't remember. I know -- because we</p> <p>4 had them at the Comfort Suites, but I</p> <p>5 can't just remember particular dates.</p> <p>6 Q. Was it towards the beginning of your</p> <p>7 employment?</p> <p>8 A. Beginning.</p> <p>9 Q. Was it while you were -- CP had the</p> <p>10 place?</p> <p>11 A. Uh-huh. (Witness shakes head.)</p> <p>12 Q. Equity had it?</p> <p>13 A. Yeah.</p> <p>14 Q. Now, you're a party to this lawsuit;</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And how did you find out about the</p> <p>18 suit?</p> <p>19 A. A friend of mine sent me a paper with</p> <p>20 the phone number on it saying that they</p> <p>21 was taking Equity Group to court.</p> <p>22 Q. And whose phone number was that? Was</p> <p>23 that the lawyers?</p>   |

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| <p style="text-align: right;">14</p> <p>1 A. Uh-huh. It had Johnny Cochran.<br/> 2 Q. And did that paper tell you what the<br/> 3 lawsuit was about?<br/> 4 A. Uh-huh. (Witness nods head.)<br/> 5 Q. And what do you recall the paper<br/> 6 saying?<br/> 7 A. I can't remember exactly what it was<br/> 8 saying.<br/> 9 Q. What is your understanding about what<br/> 10 this lawsuit is about?<br/> 11 A. That wages was -- well, not the wages<br/> 12 but the time was unfair, you know, that<br/> 13 they wasn't -- to my understanding, it<br/> 14 was saying that the time that we<br/> 15 worked, we wasn't getting paid for the<br/> 16 full time.<br/> 17 Q. What's your understanding of the work<br/> 18 that you did which you weren't paid<br/> 19 for?<br/> 20 A. Still being on the line and being<br/> 21 clocked out by the master clock, still<br/> 22 back working and then the supervisor<br/> 23 clocking you out with the master clock.</p>                        | <p style="text-align: right;">16</p> <p>1 discussion about any wage-and-hour<br/> 2 issues?<br/> 3 A. Yes.<br/> 4 Q. And what do you recall?<br/> 5 A. That -- the first one I attended, that<br/> 6 they was -- they was complaining about<br/> 7 the pay, that, you know -- I'm getting<br/> 8 confused.<br/> 9 Q. Take your time.<br/> 10 MR. KISER: Take your time.<br/> 11 A. Okay. It was that they were saying<br/> 12 that we should have been paid more.<br/> 13 This is before the raises came into<br/> 14 play.<br/> 15 Q. And why were -- other employees were<br/> 16 saying they should be paid more?<br/> 17 A. Uh-huh.<br/> 18 Q. And why did they think they should be<br/> 19 paid more? What was discussed at the<br/> 20 union meeting?<br/> 21 A. That's been so long ago. I really<br/> 22 can't --<br/> 23 MR. KISER: Don't guess.</p>  |
| <p style="text-align: right;">15</p> <p>1 Q. So your claim is that after the master<br/> 2 timecard was swiped, you were still<br/> 3 required to be working on the line?<br/> 4 A. If you weren't finished, you were.<br/> 5 Q. And is that your claim in this lawsuit?<br/> 6 A. Uh-huh. (Witness nods head.)<br/> 7 Q. As a bone sampler, you were at the very<br/> 8 tail end of the line, weren't you?<br/> 9 A. (Witness nods head.) Uh-huh.<br/> 10 Q. So you never got to leave until the<br/> 11 last chicken came by you; correct?<br/> 12 A. Uh-huh. (Witness nods head.)<br/> 13 Q. So you were always there on the job<br/> 14 when the timecard -- master card was<br/> 15 swiped?<br/> 16 A. Yeah.<br/> 17 Q. And that's your claim?<br/> 18 A. Yes, sir.<br/> 19 Q. At any of the union meetings, was there<br/> 20 any discussion about your problem?<br/> 21 A. I can't remember.<br/> 22 Q. Do you recall at any of the union<br/> 23 meetings that you attended any</p> | <p style="text-align: right;">17</p> <p>1 A. I can't remember.<br/> 2 Q. But you recall discussions about wages<br/> 3 and hours?<br/> 4 A. Yeah.<br/> 5 Q. Did that occur at just one meeting?<br/> 6 A. I only attended three. I think it was<br/> 7 the first one that I went to.<br/> 8 Q. And was there any discussion about<br/> 9 wage-and-hour problems at any of the<br/> 10 other meetings?<br/> 11 A. Not that I can recall.<br/> 12 Q. Did you review any papers to prepare<br/> 13 for your appearance here today?<br/> 14 A. No.<br/> 15 Q. Did you talk to anybody about your<br/> 16 deposition, besides your lawyers?<br/> 17 A. No.<br/> 18 Q. When you were working as a bone<br/> 19 sampler, what items of clothing and<br/> 20 equipment did you wear every day on the<br/> 21 line?<br/> 22 A. Hair net, earplugs, safety glasses,<br/> 23 cloth gloves, the outer gloves, the</p> |

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| <p style="text-align: right;">18</p> <p>1 sleeves, smock, and apron.<br/> 2 Q. So you listed a hair net, earplugs,<br/> 3 glasses, gloves, sleeves, a smock, and<br/> 4 an apron?<br/> 5 A. Uh-huh. And boots.<br/> 6 Q. And boots. Which of these items, to<br/> 7 your understanding, were you required<br/> 8 to wear?<br/> 9 A. All of them.<br/> 10 Q. All of them?<br/> 11 A. (Witness nods head.)<br/> 12 Q. When you went to work in the HACCP<br/> 13 program, what did you wear?<br/> 14 A. Same thing.<br/> 15 Q. The same thing?<br/> 16 A. (Witness nods head.)<br/> 17 Q. You had to wear an apron?<br/> 18 A. (Witness nods head.)<br/> 19 Q. And sleeves?<br/> 20 A. Uh-huh. (Witness nods head.)<br/> 21 MR. KISER: Make sure not to<br/> 22 nod your head, and say yes or no.<br/> 23 Q. As you were able to observe in the</p>  | <p style="text-align: right;">20</p> <p>1 Q. Am I correct that each of these items<br/> 2 that you have identified were issued to<br/> 3 you by the company?<br/> 4 A. Only on Mondays.<br/> 5 Q. But let's --<br/> 6 A. Yes, sir.<br/> 7 Q. We'll get to that in a second. But you<br/> 8 got all these items from the company?<br/> 9 A. Yes, sir.<br/> 10 Q. Including the boots?<br/> 11 A. Yes, sir.<br/> 12 Q. And you got all these things -- whether<br/> 13 it was CP or Equity, you got the items<br/> 14 that you wore from your employer?<br/> 15 A. Yes.<br/> 16 Q. And which of these items did you pick<br/> 17 up on an everyday basis?<br/> 18 A. Hair net.<br/> 19 Q. Anything else?<br/> 20 A. (Witness shakes head.)<br/> 21 Q. What about a smock?<br/> 22 A. Yes. Toward the end, yes. Yes, sir.<br/> 23 Q. Just towards the end or the whole time?</p> |
| <p style="text-align: right;">19</p> <p>1 debone production room, did all the<br/> 2 employees wear the identical same items<br/> 3 that you identified?<br/> 4 A. Yes.<br/> 5 Q. There was no variation at all?<br/> 6 A. No.<br/> 7 Q. Didn't some employees wear plastic arm<br/> 8 guards?<br/> 9 A. Yeah.<br/> 10 Q. And those were the employees that<br/> 11 worked with knives?<br/> 12 A. Yes, sir.<br/> 13 Q. And you didn't work with knives, so you<br/> 14 didn't have to wear one?<br/> 15 A. No.<br/> 16 Q. Can you recall any other variations in<br/> 17 the items worn by the employees?<br/> 18 A. Not right offhand.<br/> 19 Q. Did some employees choose not to wear<br/> 20 these plastic sleeves?<br/> 21 A. Not many. Not that I can recall.<br/> 22 Q. You can't recall any at all?<br/> 23 A. (Witness shakes head.)</p> | <p style="text-align: right;">21</p> <p>1 A. When I first started, we had to take<br/> 2 them home.<br/> 3 Q. And when did the change occur?<br/> 4 A. In 2005.<br/> 5 Q. It was after Equity took over?<br/> 6 A. Yes, sir.<br/> 7 Q. So after Equity took over, every day<br/> 8 you picked up a hair net and a smock;<br/> 9 correct?<br/> 10 A. No.<br/> 11 MR. KISER: Do you understand<br/> 12 what he --<br/> 13 THE WITNESS: I understand what<br/> 14 he's saying.<br/> 15 A. But not when they first took over.<br/> 16 Q. Okay. At some point after that --<br/> 17 A. After they was --<br/> 18 Q. -- you started picking up on a daily<br/> 19 basis at the supply room a smock and a<br/> 20 hair net and anything else?<br/> 21 A. That was it.<br/> 22 Q. Could you wear any of these things that<br/> 23 you wore from home?</p>                             |

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| <p style="text-align: right;">22</p> <p>1 A. No.</p> <p>2 Q. Except the boots. Could you wear the</p> <p>3 boots from home?</p> <p>4 A. Yes.</p> <p>5 Q. Did you?</p> <p>6 A. No. I used the shoe covers.</p> <p>7 Q. Now, when you were working as a bone</p> <p>8 sampler, when you got to the plant in</p> <p>9 the morning, where would you put your</p> <p>10 smock on?</p> <p>11 A. Inside the debone.</p> <p>12 Q. And where would you put the plastic</p> <p>13 apron on?</p> <p>14 A. Inside debone.</p> <p>15 Q. The plastic sleeves?</p> <p>16 A. In debone.</p> <p>17 Q. The cotton and rubber gloves?</p> <p>18 A. In debone.</p> <p>19 Q. And the other items that you wore, your</p> <p>20 boots and your hair net and your</p> <p>21 earplugs, do you put them on before you</p> <p>22 went into debone?</p> <p>23 A. Yes.</p>   | <p style="text-align: right;">24</p> <p>1 Q. And when you were doing the HACCP work,</p> <p>2 am I correct that you toured the</p> <p>3 facility and looked to make sure that</p> <p>4 people were wearing the appropriate</p> <p>5 attire?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And looked to see that they were --</p> <p>8 that there was no excess meat on the</p> <p>9 floor or slippery spots? Is that the</p> <p>10 kind of thing you did?</p> <p>11 A. Yes.</p> <p>12 Q. And did you have the power to write</p> <p>13 people up for equipment violations?</p> <p>14 A. Yes.</p> <p>15 Q. And did you, on occasion, do that?</p> <p>16 A. Yes.</p> <p>17 Q. What sort of equipment violations did</p> <p>18 you write people up for?</p> <p>19 A. Mostly it was the beard net and chewing</p> <p>20 gum. Sometimes they wouldn't have</p> <p>21 their guard on when they'd be cutting.</p> <p>22 Q. Did you ever write anyone up for not</p> <p>23 wearing the plastic sleeves?</p> |
| <p style="text-align: right;">23</p> <p>1 Q. And when you went to work for HACCP,</p> <p>2 did you put them on when you went onto</p> <p>3 the floor?</p> <p>4 A. Yes.</p> <p>5 Q. The exact same way?</p> <p>6 A. Yes.</p> <p>7 Q. You didn't use a knife?</p> <p>8 A. No.</p> <p>9 Q. Do you use any other tools or</p> <p>10 equipment?</p> <p>11 A. No.</p> <p>12 Q. What time did the first shift start?</p> <p>13 A. Seven-thirty.</p> <p>14 Q. And what time did it end?</p> <p>15 A. Four-thirty.</p> <p>16 Q. And I assume you were required to be on</p> <p>17 the production line when you were</p> <p>18 working as a bone sampler at 7:30?</p> <p>19 A. Yes.</p> <p>20 Q. When you went to work for HACCP, what</p> <p>21 time were you required to be in the</p> <p>22 production line or in the room?</p> <p>23 A. Same time.</p> | <p style="text-align: right;">25</p> <p>1 A. No. Most everybody wore those. No.</p> <p>2 Q. You said "mostly." Were there some</p> <p>3 people that didn't?</p> <p>4 A. I can't recall.</p> <p>5 Q. Did your HACCP shift end at 4:30, too?</p> <p>6 A. No.</p> <p>7 Q. When did that end?</p> <p>8 A. Three, because we had to be there at</p> <p>9 six with HACCP to inspect.</p> <p>10 Q. So when you went to work for HACCP,</p> <p>11 your hours were six to three?</p> <p>12 A. Six to three.</p> <p>13 Q. Okay.</p> <p>14 A. Three or three-thirty, one of them.</p> <p>15 Q. How many breaks did you get during your</p> <p>16 shift?</p> <p>17 A. Two.</p> <p>18 Q. And did you get two when you worked</p> <p>19 both jobs?</p> <p>20 A. Yes.</p> <p>21 Q. And how long were those breaks?</p> <p>22 A. Set for thirty minutes.</p> <p>23 Q. And did you get the full thirty</p>  |



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| <p style="text-align: right;">26</p> <p>1 minutes, generally?</p> <p>2 A. No.</p> <p>3 Q. Why not?</p> <p>4 A. We had to undress.</p> <p>5 Q. Did you have to undress when you worked</p> <p>6 both jobs?</p> <p>7 A. Yes.</p> <p>8 Q. How much time did you have in the break</p> <p>9 room?</p> <p>10 A. About fifteen minutes.</p> <p>11 Q. When you were a bone sampler, how would</p> <p>12 you know when it was time to take your</p> <p>13 break?</p> <p>14 A. They had clocks in there. And then</p> <p>15 bone sampler, you can't leave off the</p> <p>16 line until your meat finish running</p> <p>17 down. So when you get the last piece</p> <p>18 of meat, last breast or whatever you</p> <p>19 got, you know you can go on break.</p> <p>20 Q. And you were always the last one?</p> <p>21 A. No, depending on what line I was on.</p> <p>22 We switched lines. You got one, two,</p> <p>23 three, four. So we will start at one,</p>   | <p style="text-align: right;">28</p> <p>1 Q. Because you were the last one to leave</p> <p>2 your line to go on break, were you</p> <p>3 permitted some extra time to come back</p> <p>4 from break because the meat had to</p> <p>5 start up at the head of the line?</p> <p>6 A. No.</p> <p>7 Q. You had to go back along with everybody</p> <p>8 else?</p> <p>9 A. Yes.</p> <p>10 Q. When you worked debone and your shift</p> <p>11 started at 7:30, what time would you</p> <p>12 usually arrive at the plant?</p> <p>13 A. I probably get there about a quarter</p> <p>14 till.</p> <p>15 Q. Pardon?</p> <p>16 A. A quarter to -- about a quarter till --</p> <p>17 like fifteen after, fifteen minutes</p> <p>18 after seven.</p> <p>19 Q. So you would get there at 7:15?</p> <p>20 A. Uh-huh. (Witness nods head.)</p> <p>21 Q. Did you have to pass through security</p> <p>22 to get into the plant?</p> <p>23 A. At the guard shack.</p> |
| <p style="text-align: right;">27</p> <p>1 then we'll be switching probably about</p> <p>2 every week or every other day or</p> <p>3 something like that.</p> <p>4 Q. But whatever line you were on, were you</p> <p>5 always the bone sampler?</p> <p>6 A. Uh-huh. (Witness nods head.)</p> <p>7 Q. So that particular line, were you</p> <p>8 always the last one to leave?</p> <p>9 A. It still depends on the line, because</p> <p>10 one and two might stop first. They</p> <p>11 might -- their meat probably run out</p> <p>12 first, then three and four, five and</p> <p>13 six, and then last two lines, you know,</p> <p>14 whoever on the last two lines.</p> <p>15 Q. But in whatever line you were working</p> <p>16 on, if you --</p> <p>17 A. I'd be the last one off that line.</p> <p>18 Q. You would be the last one off of that</p> <p>19 line. Okay. And how did you know when</p> <p>20 it was time to go back to work from</p> <p>21 break?</p> <p>22 A. The clock. And everybody start going</p> <p>23 back.</p> | <p style="text-align: right;">29</p> <p>1 Q. Okay. Did you have a sticker for your</p> <p>2 car?</p> <p>3 A. No. I never got the sticker. I</p> <p>4 always -- we had to have our badge.</p> <p>5 Q. And you just waved your badge and the</p> <p>6 guard would let you through?</p> <p>7 A. Yeah.</p> <p>8 Q. Is that how it worked?</p> <p>9 A. (Witness nods head.)</p> <p>10 Q. And when you left at night, did you</p> <p>11 have to go through security?</p> <p>12 A. (Witness shakes head.) Uh-huh.</p> <p>13 Q. And were you ever searched when you</p> <p>14 entered the plant?</p> <p>15 A. No.</p> <p>16 Q. Were your personal possessions ever</p> <p>17 searched?</p> <p>18 A. No.</p> <p>19 Q. Tell me what you did when you worked</p> <p>20 debone once you got into the parking</p> <p>21 lot. Where did you go from there?</p> <p>22 A. Put my stuff in my locker, probably</p> <p>23 clock in, go stand in line to wait to</p>    |

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| <p style="text-align: right;">30</p> <p>1 get whatever I needed for the day.</p> <p>2 Q. You would stand in line at the</p> <p>3 supply --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- shed?</p> <p>6 A. (Witness nods head.)</p> <p>7 Q. Or whatever you called it?</p> <p>8 A. At the supply room.</p> <p>9 Q. Supply room. And how long would the</p> <p>10 wait be?</p> <p>11 A. I don't know. It varied.</p> <p>12 Q. What was the longest you can ever</p> <p>13 recall waiting there?</p> <p>14 MR. KISER: Don't guess.</p> <p>15 A. I can't -- I can't say.</p> <p>16 Q. And after you picked up your supplies</p> <p>17 at the supply room, where did you go?</p> <p>18 A. On the floor.</p> <p>19 Q. You went directly to the floor?</p> <p>20 A. (Witness nods head.)</p> <p>21 Q. Your shift started at 7:30.</p> <p>22 Approximately what time would you walk</p> <p>23 onto the floor?</p> | <p style="text-align: right;">32</p> <p>1 Q. Okay. Now, when it came time for your</p> <p>2 first break, tell me what you did.</p> <p>3 A. I'd stand on the line until my last</p> <p>4 sample was done and I go and take off</p> <p>5 my apron, my smock, my sleeve, my</p> <p>6 glove, and then I go to break.</p> <p>7 Q. How long would that process take?</p> <p>8 A. We had to go wash up, you know, because</p> <p>9 it'd be greasy. You had to go to the</p> <p>10 sink and wash your hands, get all the</p> <p>11 grease off of you, dry them up, and</p> <p>12 then go. I'd say anywhere from seven</p> <p>13 to ten minutes.</p> <p>14 Q. Did everybody wash before leaving to go</p> <p>15 on break?</p> <p>16 A. Yes.</p> <p>17 Q. Tell me what you did now in reverse</p> <p>18 when it was time to go off your break.</p> <p>19 A. Go back, go through the sanitizer,</p> <p>20 sanitize my boots.</p> <p>21 Q. For your boots?</p> <p>22 A. Uh-huh. Go back to the spot that I</p> <p>23 hung my stuff and I get the smock, the</p>  |
| <p style="text-align: right;">31</p> <p>1 A. I can't say. Maybe -- okay. We get</p> <p>2 in -- sometimes maybe five minutes</p> <p>3 before.</p> <p>4 Q. And --</p> <p>5 A. About.</p> <p>6 Q. Seven twenty-five?</p> <p>7 A. Something like that, yes.</p> <p>8 Q. And when you went on the floor, that's</p> <p>9 the time when you put on your smock and</p> <p>10 your apron and your sleeves?</p> <p>11 A. Uh-huh. (Witness nods head.)</p> <p>12 Q. And then you were ready to work at</p> <p>13 7:30?</p> <p>14 A. Yes.</p> <p>15 Q. So it took you about five minutes to</p> <p>16 put that stuff on?</p> <p>17 A. Yeah, five to seven, as long as we was</p> <p>18 in there.</p> <p>19 Q. Did you have to do any washing when you</p> <p>20 went through this process of putting</p> <p>21 the stuff on? Did you have to rinse it</p> <p>22 off?</p> <p>23 A. No.</p>                  | <p style="text-align: right;">33</p> <p>1 apron, the glove, and a sleeve, put</p> <p>2 them on, safety glasses, put earplugs</p> <p>3 back in.</p> <p>4 Q. How long would that process take you?</p> <p>5 A. About seven -- seven minutes or more.</p> <p>6 Q. How much time did you spend in the</p> <p>7 break room on your break?</p> <p>8 A. Maybe, about, ten minutes, about</p> <p>9 five -- five minutes before I go head</p> <p>10 back to the -- to the room, because</p> <p>11 everybody be in there and you might not</p> <p>12 can get up to get your stuff. So you</p> <p>13 probably be in the line to get back up</p> <p>14 to the rack to get your protective</p> <p>15 gear.</p> <p>16 Q. Let me ask it this way. How much time</p> <p>17 did you actually have in the break room</p> <p>18 on your break? You were supposed to</p> <p>19 get thirty minutes. How much do you</p> <p>20 recall spending?</p> <p>21 A. Maybe fifteen.</p> <p>22 Q. Fifteen. Okay. Now, at the end of</p> <p>23 your shift, tell me what you did.</p> |

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| <p style="text-align: right;">34</p> <p>1 A. Waited for my sample to end, take<br/>2 off -- go take my stuff off, wash it up<br/>3 so it wouldn't be greasy, because I<br/>4 used the glove. Take my smock off, my<br/>5 apron, my sleeves, and my gloves.<br/>6 Q. And what would you do with all that<br/>7 stuff?<br/>8 A. We -- toward the end, we was putting<br/>9 the apron in a -- in a hamper so they<br/>10 could wash it. And the other stuff, I<br/>11 would -- if I was going to use it<br/>12 again, I would keep it; if I wasn't, I<br/>13 would just throw it away.<br/>14 Q. What would you do with the apron and<br/>15 the sleeves?<br/>16 A. I had to wash them up if I was going to<br/>17 use them the next day if they wasn't<br/>18 tore or anything. I have to wash all<br/>19 the grease off of them and clean them<br/>20 up and dry them so I could use them the<br/>21 next day.<br/>22 Q. And then you would clock out?<br/>23 A. (Witness nods head.)</p> | <p style="text-align: right;">36</p> <p>1 Q. The whole time?<br/>2 A. Uh-huh. (Witness nods head.)<br/>3 Q. And was there a line at a quarter to<br/>4 six in the morning?<br/>5 A. Sometimes.<br/>6 Q. Sometimes. So you put your smock on<br/>7 and your hair net and you went right<br/>8 out on the floor and started inspecting<br/>9 to see that the sanitation people had<br/>10 done their job properly; is that<br/>11 correct?<br/>12 A. Yes.<br/>13 Q. So you pretty much walked right onto<br/>14 the floor; is that fair to say?<br/>15 A. At -- before the -- just to inspect,<br/>16 yes.<br/>17 Q. Before the what?<br/>18 A. Just to inspect.<br/>19 Q. Okay. And after you did that, then<br/>20 what did you do?<br/>21 A. After I finished inspecting, I had<br/>22 to -- if we had to write anything up, I<br/>23 would write it up, go back and take off</p>  |
| <p style="text-align: right;">35</p> <p>1 Q. And leave?<br/>2 A. Uh-huh. (Witness nods head.)<br/>3 Q. Now, when you started the HACCP job,<br/>4 your work started at 6 a.m.; correct?<br/>5 A. Yes.<br/>6 Q. And what time would you arrive at the<br/>7 plant?<br/>8 A. About a quarter till.<br/>9 Q. And would you go to the supply room?<br/>10 A. Not right off.<br/>11 Q. What would you do right off?<br/>12 A. I would have to go to the -- to the --<br/>13 out in debone and inspect, you know,<br/>14 because I mostly -- I just had to have<br/>15 the hair net and the smock when I --<br/>16 when I go to do the inspection and make<br/>17 sure it's been sanitized good. I'll<br/>18 just have to have the coat, the smock,<br/>19 and the hair net.<br/>20 Q. So did you have to pick those items up<br/>21 at supply?<br/>22 A. Well, we would -- toward the end, they<br/>23 would be -- yeah. Yes, sir.</p>  | <p style="text-align: right;">37</p> <p>1 my smock and hang it up. And then I go<br/>2 get my stuff ready to start out on the<br/>3 floor for the day.<br/>4 Q. And is it your understanding you were<br/>5 paid for all these activities you just<br/>6 described for me?<br/>7 A. Well, it -- we had to go -- I don't<br/>8 know if she had clocked us in or not,<br/>9 but we clocked ourself in. But she<br/>10 didn't clock us in until a certain<br/>11 time.<br/>12 Q. Well, the activities that you've been<br/>13 describing for me that you performed<br/>14 when you first got to the plant in the<br/>15 HACCP job, you told me that you put<br/>16 your smock and your hair net on and you<br/>17 went out onto the floor because that's<br/>18 all you needed and you inspected the<br/>19 production floor to make sure that the<br/>20 sanitation people had done their job<br/>21 properly; correct?<br/>22 A. Uh-huh. (Witness nods head.)<br/>23 Q. Were you paid for that time?</p> |



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| <p style="text-align: right;">38</p> <p>1 A. I don't know, because we had to be out<br/>2 there before six. We had to be out<br/>3 before six and she didn't clock us in<br/>4 until six.<br/>5 Q. Were you inspecting the floor before<br/>6 six?<br/>7 A. We had to be on the floor at six.<br/>8 Q. Okay. And that's when you started<br/>9 inspecting the floor?<br/>10 A. Uh-huh. (Witness nods head.)<br/>11 Q. And my question is, do you know whether<br/>12 you were paid for that time?<br/>13 A. I don't know.<br/>14 Q. Okay. And after you inspected the<br/>15 floor, you had to do some paperwork?<br/>16 A. Yes.<br/>17 Q. Were you paid for that time?<br/>18 A. Yeah, we were being paid during that<br/>19 time, I know.<br/>20 Q. Are any of those activities that you<br/>21 just described for me, inspecting the<br/>22 floor or the paperwork, those things<br/>23 that you did in HACCP before actual</p> | <p style="text-align: right;">40</p> <p>1 required to wear?<br/>2 A. Uh-huh. (Witness nods head.)<br/>3 Q. And were you required to wear the<br/>4 gloves or did you just wear them<br/>5 because it was cold in there?<br/>6 A. It was -- it was cold and then certain<br/>7 things you couldn't touch without the<br/>8 gloves on.<br/>9 Q. Now, when you were working the HACCP<br/>10 job and you went over to the evis side,<br/>11 did you have to put on additional --<br/>12 A. We had to put everything on on that<br/>13 side.<br/>14 Q. And did that occur sometime during the<br/>15 work day between six and three?<br/>16 A. Yes.<br/>17 Q. And you were on the clock when you put<br/>18 that stuff on?<br/>19 A. Yes.<br/>20 Q. You were paid for donning that stuff;<br/>21 correct?<br/>22 A. Well, no. I didn't have to -- I would<br/>23 do one side a day. Either I was</p> |
| <p style="text-align: right;">39</p> <p>1 production started, are you making any<br/>2 claim for unpaid wages for those<br/>3 activities in this case?<br/>4 A. I don't know.<br/>5 Q. You don't know?<br/>6 A. (Witness shakes head.)<br/>7 Q. So when you're working the HACCP job,<br/>8 at some point, as I understand it, you<br/>9 are required to, in addition to the<br/>10 smock which you already have on, you<br/>11 are required to put on your apron and<br/>12 sleeves?<br/>13 A. Only -- only if I was on the evis side,<br/>14 not on the debone side.<br/>15 Q. Okay. So when you were working on the<br/>16 debone side for HACCP from six to<br/>17 three, is the only thing you were<br/>18 required to wear was the smock and the<br/>19 hair net?<br/>20 A. Well, I would put the gloves on.<br/>21 Q. And the gloves?<br/>22 A. Uh-huh.<br/>23 Q. Those were the only things you were</p>                   | <p style="text-align: right;">41</p> <p>1 working on debone or either I was<br/>2 working on evis.<br/>3 Q. So you didn't split sides?<br/>4 A. No.<br/>5 Q. Okay.<br/>6 A. Unless, you know, it was a problem that<br/>7 came up.<br/>8 Q. So when you were working HACCP and you<br/>9 were due to do the evis side, you would<br/>10 still come at 6 a.m.?<br/>11 A. Uh-huh. (Witness nods head.)<br/>12 Q. And would you still go out and -- in<br/>13 your smock only and inspect the<br/>14 sanitation job?<br/>15 A. Some days, yes.<br/>16 Q. And then at some -- and then you would<br/>17 do some paperwork?<br/>18 A. Yes.<br/>19 Q. And at some point after that, you put<br/>20 on the apron and the sleeves?<br/>21 A. Uh-huh. (Witness nods head.)<br/>22 Q. Now, the inspections that you did on<br/>23 the evis floor and the paperwork, were</p>                               |

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| <p style="text-align: right;">42</p> <p>1 you paid for that?</p> <p>2 A. Yes.</p> <p>3 Q. You were paid for that?</p> <p>4 A. Wait. The paperwork on the evis side?</p> <p>5 Q. Yes.</p> <p>6 A. Yes.</p> <p>7 Q. So that's not part of this claim?</p> <p>8 A. No. Evis, you only -- the evis side,</p> <p>9 you -- I don't know. I'm getting</p> <p>10 confused.</p> <p>11 MR. KISER: Make sure you</p> <p>12 understand the question before you --</p> <p>13 A. I don't quite understand.</p> <p>14 MR. KISER: If you don't, he'll</p> <p>15 be more than happy to --</p> <p>16 THE WITNESS: Okay.</p> <p>17 Q. Just tell me if you don't understand my</p> <p>18 question.</p> <p>19 A. I didn't quite understand.</p> <p>20 Q. Okay. When you showed up at the plant</p> <p>21 at a quarter to six on those mornings</p> <p>22 when you knew you were going to be</p> <p>23 assigned the HACCP job on the</p>  | <p style="text-align: right;">44</p> <p>1 you had to put on the additional outer</p> <p>2 garments?</p> <p>3 A. Uh-huh. (Witness nods head.)</p> <p>4 Q. And were you paid -- were you on the</p> <p>5 clock at that point in time?</p> <p>6 A. I was on the clock, because I'm coming</p> <p>7 from debone.</p> <p>8 Q. Okay. So that's not part of this case?</p> <p>9 A. No.</p> <p>10 Q. Okay. When you were working the HACCP</p> <p>11 job, how did you know when it was time</p> <p>12 to go on break?</p> <p>13 A. Everybody went at the same time.</p> <p>14 Q. But you didn't have to wait around for</p> <p>15 any meat to finish or anything, did</p> <p>16 you?</p> <p>17 A. No. Only if I was checking on the</p> <p>18 line.</p> <p>19 Q. Yeah. Okay. So when you're working</p> <p>20 HACCP and you're in the debone side,</p> <p>21 you just have to take off your smock</p> <p>22 and leave; correct?</p> <p>23 A. No.</p>                         |
| <p style="text-align: right;">43</p> <p>1 evisceration side -- okay?</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- am I correct that you got your smock</p> <p>4 and you inspected the sanitation job</p> <p>5 that was done the night before?</p> <p>6 A. Uh-huh. I always had to inspect</p> <p>7 debone, the debone side. I never had</p> <p>8 to inspect the evis, because they</p> <p>9 inspected it at five.</p> <p>10 Q. Okay. So you didn't have to inspect</p> <p>11 evis?</p> <p>12 A. I didn't have to inspect the</p> <p>13 evisceration side, because they started</p> <p>14 up at six.</p> <p>15 Q. Okay. So tell me what you did when you</p> <p>16 knew you were going to work HACCP on</p> <p>17 the evis side.</p> <p>18 A. I still had to come in and inspect --</p> <p>19 inspect debone. I couldn't start on</p> <p>20 the evisceration side until 7:30.</p> <p>21 Q. Okay. So when -- at 7:30, when you</p> <p>22 went to the evis side to start the</p> <p>23 HACCP work there, that's the point when</p> | <p style="text-align: right;">45</p> <p>1 Q. What do you have to do?</p> <p>2 A. I -- I would have on everything because</p> <p>3 I was on this side. I would have to</p> <p>4 take the birds off the line. You have</p> <p>5 to take ten birds off the line and</p> <p>6 inspect.</p> <p>7 Q. Okay.</p> <p>8 A. So I would have to put everything on</p> <p>9 over there.</p> <p>10 Q. When did you -- okay. This is --</p> <p>11 you're working the HACCP job now;</p> <p>12 correct?</p> <p>13 A. Uh-huh. (Witness nods head.)</p> <p>14 Q. And when during the day did you put</p> <p>15 everything on?</p> <p>16 A. After I finish inspecting for debone to</p> <p>17 come in, I would come over on the</p> <p>18 evisceration side and suit up with</p> <p>19 everything.</p> <p>20 Q. Okay. And so you would go from your</p> <p>21 first break from the evis side?</p> <p>22 A. Uh-huh. (Witness nods head.)</p> <p>23 Q. And did you do that every day?</p> |

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| <p style="text-align: right;">46</p> <p>1 A. No. It varied. We would have to be in<br/>2 different places.<br/>3 Q. So if you were on the debone side and<br/>4 it was break time, as I understand it,<br/>5 all you had on was a smock?<br/>6 A. A smock and gloves.<br/>7 Q. And gloves. Okay. And so you just<br/>8 took those off and went?<br/>9 A. Yes.<br/>10 Q. And how long did that take?<br/>11 A. That --<br/>12 Q. Didn't take very long, did it?<br/>13 A. Uh-uh. (Witness shakes head.)<br/>14 Q. And coming back, you just had to put it<br/>15 on?<br/>16 A. Uh-huh, I just had to put it on.<br/>17 Q. And could you put your smock on and<br/>18 take it off while you were walking?<br/>19 A. Yes.<br/>20 Q. Now, if you went on break when you were<br/>21 in the evis side doing the HACCP job,<br/>22 you had to wash the extra things you<br/>23 had on and hang them up and you had to</p> | <p style="text-align: right;">48</p> <p>1 paperwork?<br/>2 A. I -- I don't know.<br/>3 Q. And is that part of your claim in this<br/>4 case?<br/>5 A. I can't say that, because I'm not sure<br/>6 whether we was being clocked out with<br/>7 the master card in HACCP like we was in<br/>8 debone. I'm not sure.<br/>9 Q. Okay. That was my next question, I<br/>10 think. When you were working HACCP,<br/>11 you don't know whether you were being<br/>12 paid on the basis of line time, master<br/>13 card, do you?<br/>14 A. No, I don't know that.<br/>15 Q. Did you ever ask?<br/>16 A. No.<br/>17 Q. But you knew when you were working<br/>18 debone as a bone sampler that you were<br/>19 being paid on the basis of the master<br/>20 card?<br/>21 A. Yes.<br/>22 Q. And you don't know whether that carried<br/>23 over into HACCP?</p>          |
| <p style="text-align: right;">47</p> <p>1 put them back on when you came back;<br/>2 correct?<br/>3 A. Yes.<br/>4 Q. Okay. At the end of the day when you<br/>5 were working the HACCP job, what did<br/>6 you do?<br/>7 A. On the evisceration side?<br/>8 Q. Let's start on the debone side. Did<br/>9 sometimes you finish up on the debone<br/>10 side when you were working the HACCP<br/>11 side?<br/>12 A. (Witness nods head.)<br/>13 Q. What did you have to do?<br/>14 A. Just finish up my paperwork.<br/>15 Q. And did you -- and what time would you<br/>16 usually finish that up?<br/>17 A. Probably about -- sometimes ten after,<br/>18 fifteen after. Sometimes ten after,<br/>19 ten minutes or fifteen minutes after<br/>20 the time.<br/>21 Q. After three?<br/>22 A. Uh-huh.<br/>23 Q. And were you paid for doing that</p>   | <p style="text-align: right;">49</p> <p>1 A. No, I don't.<br/>2 Q. Did you ever have occasion to complain<br/>3 to anybody at payroll or one of your<br/>4 supervisors about any of your<br/>5 paychecks?<br/>6 A. The supervisor.<br/>7 Q. Okay. And what was the nature of the<br/>8 problem?<br/>9 A. I was asking her why, if we stayed<br/>10 back, that we were getting -- you know,<br/>11 that our time wasn't showing that we<br/>12 was back there longer than just 4:30.<br/>13 Q. Okay. So you were making a complaint<br/>14 because you were still working on the<br/>15 line when they swept the master card at<br/>16 4:30?<br/>17 A. Uh-huh.<br/>18 Q. And that's part of your claim in this<br/>19 case?<br/>20 A. Yes.<br/>21 Q. And is that the only complaint that<br/>22 you've made?<br/>23 A. And to one of the union reps. I can't</p> |

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| <p style="text-align: right;">50</p> <p>1 remember her name.</p> <p>2 Q. You complained to the union about the</p> <p>3 same thing?</p> <p>4 A. Uh-huh. (Witness nods head.)</p> <p>5 Q. And when did you make this complaint?</p> <p>6 A. It was soon after I had started. Had</p> <p>7 to be in May of '03.</p> <p>8 Q. Did you keep any record of the actual</p> <p>9 hours you thought you worked while you</p> <p>10 were there at that plant?</p> <p>11 A. No.</p> <p>12 Q. You never kept any diary or any --</p> <p>13 A. No.</p> <p>14 Q. -- notes as to your hours?</p> <p>15 A. No.</p> <p>16 Q. Do you know of anybody that did?</p> <p>17 A. No.</p> <p>18 Q. Have you made any calculations with</p> <p>19 respect to the amount of money you</p> <p>20 think you are owed in this lawsuit?</p> <p>21 A. No.</p> <p>22 Q. When you were working as a bone</p> <p>23 sampler, were you ever asked or</p> | <p style="text-align: right;">52</p> <p>1 time.</p> <p>2 Q. And how many times were you disciplined</p> <p>3 for that?</p> <p>4 A. Maybe once or twice.</p> <p>5 Q. And that once or twice when you were</p> <p>6 there, what was the circumstances?</p> <p>7 A. Trying to get in the bathroom.</p> <p>8 Q. Okay. But, I mean, was -- had the</p> <p>9 product reached your workstation and</p> <p>10 you weren't there?</p> <p>11 A. I don't think it had. It just -- if</p> <p>12 you're out past the -- the time, she'll</p> <p>13 say -- you know, she'll tell you you</p> <p>14 need to get back in the room because</p> <p>15 the meat's going to start up.</p> <p>16 MR. FRY: Okay. No further</p> <p>17 questions.</p> <p>18</p> <p>19 (The deposition of Patricia Jones</p> <p>20 concluded at 7:25 p.m. on May 21,</p> <p>21 2008.)</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">51</p> <p>1 required to work overtime?</p> <p>2 A. Only on Saturdays.</p> <p>3 Q. Just Saturdays?</p> <p>4 A. (Witness nods head.)</p> <p>5 Q. And when you worked overtime, were you</p> <p>6 paid time and a half?</p> <p>7 A. Yes.</p> <p>8 Q. Were you ever asked to work overtime</p> <p>9 when you worked the HACCP job?</p> <p>10 A. Saturdays.</p> <p>11 Q. And were you paid overtime for that?</p> <p>12 A. Yes.</p> <p>13 Q. You never had any problem or any</p> <p>14 complaints about how your overtime pay</p> <p>15 was computed?</p> <p>16 A. No.</p> <p>17 Q. Did you file -- ever file a formal</p> <p>18 grievance with the union with respect</p> <p>19 to any pay issue?</p> <p>20 A. No.</p> <p>21 Q. While you were working there, were you</p> <p>22 ever disciplined for anything?</p> <p>23 A. Yeah. For not being on the line on</p>                        | <p style="text-align: right;">53</p> <p>1 * * * * *</p> <p>2 REPORTER'S CERTIFICATE</p> <p>3 * * * * *</p> <p>4 STATE OF ALABAMA</p> <p>5 COUNTY OF MONTGOMERY</p> <p>6 I do hereby certify that the above</p> <p>7 and foregoing transcript was taken down</p> <p>8 by me in stenotype, and the questions</p> <p>9 and answers thereto were transcribed by</p> <p>10 means of computer-aided transcription,</p> <p>11 and that the foregoing represents a</p> <p>12 true and correct transcript of the</p> <p>13 testimony given by said witness.</p> <p>14 I further certify that I am neither</p> <p>15 of counsel, nor any relation to the</p> <p>16 parties to the action, nor am I anyway</p> <p>17 interested in the result of said case.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 <u>Bridgette W. Mitchell,</u></p> <p>22 Certified Court Reporter and</p> <p>23 Commissioner for the State of</p> <p>Alabama at Large</p> <p>ACCR No. 231 - Expires 9/30/08</p> <p>MY COMMISSION EXPIRES 1/25/2010</p> |

**TAB 27**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner

and Certified Court Reporter

DEPOSITION TESTIMONY OF

ARLEEN KENNEDY

\*\*\*\*\*

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of ARLEEN KENNEDY</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 21st day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                   6-46</p> <p>4   MR. CAMP                    46-52</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   Defendant's Exhibit No. 1       41</p> <p>8   (Four-page Declaration)</p> <p>9   Reporter's Certificate        53</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. ROBERT J. CAMP</p> <p>5       THE COCHRAN FIRM, P.C.</p> <p>6       ATTORNEYS AT LAW</p> <p>7       505 North 20th Street</p> <p>8       Suite 825</p> <p>9       Birmingham, Alabama 35203</p> <p>10      (205) 244-1115</p> <p>11</p> <p>12   ON BEHALF OF THE DEFENDANT:</p> <p>13      MR. MALCOLM S. GOULD</p> <p>14      PELINO &amp; LENTZ</p> <p>15      ATTORNEYS AT LAW</p> <p>16      One Liberty Place</p> <p>17      Thirty-Second Floor</p> <p>18      1650 Market Street</p> <p>19      Philadelphia, Pennsylvania 19103</p> <p>20      (215) 665-1540</p> <p>21</p> <p>22</p> <p>23   *****</p> |



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| <p style="text-align: right;">6</p> <p>1</p> <p>2 I, CYNTHIA M. NOAKES, a Certified</p> <p>3 Court Reporter of Eufaula, Alabama, acting as</p> <p>4 Commissioner, certify that on this date, as</p> <p>5 provided by the Alabama Rules of Civil Procedure</p> <p>6 and the foregoing stipulation of counsel, there</p> <p>7 came before me at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>10 6 p.m., ARLEEN KENNEDY, witness in the above</p> <p>11 cause, for oral examination, whereupon the</p> <p>12 following proceedings were had:</p> <p>13</p> <p>14 ARLEEN KENNEDY,</p> <p>15 being first duly sworn, was examined and</p> <p>16 testified as follows:</p> <p>17</p> <p>18 THE COURT REPORTER: Usual</p> <p>19 stipulations?</p> <p>20 MR. CAMP: Yes.</p> <p>21 MR. GOULD: Yes.</p> <p>22</p> <p>23 EXAMINATION</p>   | <p style="text-align: right;">8</p> <p>1 understand what I'm asking, feel free to let me</p> <p>2 know and I'll try to either repeat the question or</p> <p>3 ask the question in a different way. Okay?</p> <p>4 A. Yes.</p> <p>5 Q. Now, if I ask a question and you don't know</p> <p>6 the answer, "I don't know" is an acceptable</p> <p>7 answer. I'd rather you say "I don't know" or "I</p> <p>8 don't remember" rather than trying to guess.</p> <p>9 I don't believe that the deposition will</p> <p>10 take long, but if you feel that you need to take a</p> <p>11 break, just let me know and you can certainly take</p> <p>12 a break. Okay?</p> <p>13 A. Yes.</p> <p>14 Q. Now, can you state your full name for the</p> <p>15 record, please?</p> <p>16 A. My name is Arleen Kennedy.</p> <p>17 Q. And, Ms. Kennedy, what is your home address?</p> <p>18 A. 2111 Randolph Avenue, Eufaula, Alabama</p> <p>19 36027.</p> <p>20 Q. Ma'am, are you currently employed?</p> <p>21 A. Yes.</p> <p>22 Q. Where were you employed?</p> <p>23 A. Keystone Equity Group Division.</p> |
| <p style="text-align: right;">7</p> <p>1 BY MR. GOULD:</p> <p>2 Q. Good afternoon, Ms. Kennedy. My name is</p> <p>3 Malcolm Gould. I'm an attorney with the law firm</p> <p>4 of Pelino &amp; Lentz in Philadelphia. I represent</p> <p>5 Equity Group Eufaula Division, LLC, in a lawsuit</p> <p>6 filed in the Middle District of Alabama in Federal</p> <p>7 Court. You are a plaintiff in that lawsuit. I'm</p> <p>8 here to take your deposition today.</p> <p>9 As you can see, we have a court reporter</p> <p>10 here. I'm going to give you a few ground rules</p> <p>11 that will help her take down my questions and your</p> <p>12 answers.</p> <p>13 First, I would ask that you keep all of your</p> <p>14 answers verbal. Say a yes or no instead of a nod</p> <p>15 of the head or a shake of the head, or instead of</p> <p>16 a huh-uh or an uh-huh or something like that.</p> <p>17 I would ask that you wait until I finish my</p> <p>18 question before you give your answer. It will</p> <p>19 make it easier for her to take it down if we're</p> <p>20 not talking over each other. It will also allow</p> <p>21 you to hear my whole question before you give your</p> <p>22 answer.</p> <p>23 Now if I ask a question and you don't</p> | <p style="text-align: right;">9</p> <p>1 Q. So you work out at the plant out in Baker</p> <p>2 Hill?</p> <p>3 A. Yes.</p> <p>4 Q. And how long have you worked there?</p> <p>5 A. July will be eight years.</p> <p>6 Q. Now, during the time you've been employed,</p> <p>7 has it always been Equity Group Eufaula Division?</p> <p>8 A. No.</p> <p>9 Q. So there's a time before that when the plant</p> <p>10 was owned by a different company, is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Do you remember the name of that company?</p> <p>13 A. Charoen Pokphand.</p> <p>14 Q. I'm just going to call them CP.</p> <p>15 A. Yes.</p> <p>16 Q. So I don't have to keep repeating that all</p> <p>17 the time.</p> <p>18 What is your current position in which you</p> <p>19 are employed at the plant?</p> <p>20 A. Now I do packout.</p> <p>21 Q. I'm sorry. Can you repeat that?</p> <p>22 A. Packout.</p> <p>23 Q. And how long have you worked in packout?</p>  |



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| <p style="text-align: right;">10</p> <p>1 A. About three years.</p> <p>2 Q. And where did you work before you worked in</p> <p>3 packout?</p> <p>4 A. Debone.</p> <p>5 Q. And did you work on a debone line?</p> <p>6 A. Yes.</p> <p>7 Q. And how long did you work on the debone</p> <p>8 line?</p> <p>9 A. Over two years.</p> <p>10 Q. And in what position did you work before</p> <p>11 that?</p> <p>12 A. I used to be at the cook plant.</p> <p>13 Q. Okay. And how long did you work in the cook</p> <p>14 plant?</p> <p>15 A. About three years.</p> <p>16 Q. Well, that adds up to eight, so I think</p> <p>17 we've got it all covered.</p> <p>18 Ma'am, are you a member of the union?</p> <p>19 A. No.</p> <p>20 Q. During the time you've been employed by</p> <p>21 Equity Group, have you ever been a member of the</p> <p>22 union?</p> <p>23 A. I used to be.</p>  | <p style="text-align: right;">12</p> <p>1 Q. Were you a member of the union when CP owned</p> <p>2 the plant?</p> <p>3 A. Yes.</p> <p>4 Q. And were you still a member of the union</p> <p>5 when Equity Group purchased the plant?</p> <p>6 A. I don't think so.</p> <p>7 MR. CAMP: You don't have to guess.</p> <p>8 Q. Right. If it was five years ago, then it</p> <p>9 probably was not.</p> <p>10 A. I don't know. I forgot.</p> <p>11 Q. That's fine. During the time that you were</p> <p>12 a member of the union, did you ever attend any</p> <p>13 union meetings?</p> <p>14 A. Every now and then I would, sometimes.</p> <p>15 Q. During the time you were a member of the</p> <p>16 union, do you recall who any of the union stewards</p> <p>17 or representatives were?</p> <p>18 A. I never had no problem. I didn't have to go</p> <p>19 to them for nothing. Never had no problem.</p> <p>20 Q. I understand. What is your understanding</p> <p>21 about what this lawsuit is about?</p> <p>22 A. Some.</p> <p>23 Q. All right. Can you describe for me what</p>   |
| <p style="text-align: right;">11</p> <p>1 Q. When did you stop being a member of the</p> <p>2 union?</p> <p>3 A. It's been over two years ago.</p> <p>4 Q. Is there a particular reason why you stopped</p> <p>5 your membership in the union?</p> <p>6 A. I had left and came back.</p> <p>7 Q. I'm sorry?</p> <p>8 A. One time they closed down; and I came back,</p> <p>9 started back over again.</p> <p>10 Q. Okay. I understand.</p> <p>11 A. I didn't join it back. Never joined it</p> <p>12 back.</p> <p>13 MR. CAMP: Do you understand? They had</p> <p>14 closed down the cook plant. She was a union</p> <p>15 member; and when she came back from that, she</p> <p>16 never reupped.</p> <p>17 MR. GOULD: I understand.</p> <p>18 Q. So that was like five years ago?</p> <p>19 A. Yeah, been like three or four years ago.</p> <p>20 Q. So that was before you worked on the debone</p> <p>21 line and before you worked in packout; is that</p> <p>22 correct?</p> <p>23 A. Yeah.</p> | <p style="text-align: right;">13</p> <p>1 your understanding is?</p> <p>2 A. They didn't pay us no money. We were</p> <p>3 underpaid.</p> <p>4 Q. When you say you were underpaid, you mean</p> <p>5 you're not being paid a high enough hourly rate or</p> <p>6 do you mean you're not being paid for the time</p> <p>7 that you work?</p> <p>8 A. Like, work. We don't get paid for work</p> <p>9 hours that we're not getting paid. We don't get</p> <p>10 40 hours. We're supposed to get overtime. We</p> <p>11 don't get paid right. Like 7.15. No one's paying</p> <p>12 us right, really. We should be making more money</p> <p>13 than what we're making.</p> <p>14 Q. Just to make sure I understand, you're</p> <p>15 saying then that part of your problem is that --</p> <p>16 MR. GOULD: Strike that.</p> <p>17 Q. Are you saying that part of your claim is</p> <p>18 that the hourly rate is too low?</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. I'm just trying to understand exactly</p> <p>21 what it was that you were explaining there.</p> <p>22 Is part of your claim that you are not being</p> <p>23 paid for time that you work?</p> |

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| <p style="text-align: right;">14</p> <p>1 A. I don't know.</p> <p>2 Q. Can you describe for me how you learned</p> <p>3 about this lawsuit?</p> <p>4 A. I heard about it -- a friend told me. And I</p> <p>5 got a piece of paper and I called the firm in</p> <p>6 Dothan. And I started attending the meetings and</p> <p>7 stuff.</p> <p>8 Q. So you said a friend gave you the number.</p> <p>9 Do you know where they got that number?</p> <p>10 A. I don't know where she got it from. She</p> <p>11 just gave it to me, and I called.</p> <p>12 Q. And then you said you started attending</p> <p>13 meetings?</p> <p>14 A. Like, when they would meet up here in</p> <p>15 Eufaula. I forgot the name of that place. I've</p> <p>16 been there about two or three times signing</p> <p>17 papers.</p> <p>18 MR. CAMP: Yeah. We're probably</p> <p>19 getting real close to attorney-client, signing</p> <p>20 declarations and what not.</p> <p>21 Q. When you would attend these meetings, was it</p> <p>22 just the attorneys and plaintiffs?</p> <p>23 A. Yeah.</p> | <p style="text-align: right;">16</p> <p>1 this lawsuit with anybody else?</p> <p>2 A. No.</p> <p>3 Q. And other than meeting with your attorneys</p> <p>4 this morning, have you met with anybody else to</p> <p>5 discuss your deposition today?</p> <p>6 A. No.</p> <p>7 Q. And I want to go back and ask you a little</p> <p>8 bit more about your understanding of the lawsuit,</p> <p>9 just so I make sure that I don't miss any issues</p> <p>10 that you may be raising here.</p> <p>11 Can you describe for me any activities for</p> <p>12 which you believe you should be paid that you have</p> <p>13 not been paid?</p> <p>14 A. I thought we wasn't getting paid right, I</p> <p>15 don't think.</p> <p>16 Q. Okay. Can you describe for me how you</p> <p>17 haven't been getting paid right?</p> <p>18 A. To, like, on our break time.</p> <p>19 Q. Okay. Other than issues related to your</p> <p>20 break time, is there anything else?</p> <p>21 A. Just not getting paid right. Just not</p> <p>22 getting paid right. I don't think I'm not getting</p> <p>23 paid right. A lot of issues.</p>  |
| <p style="text-align: right;">15</p> <p>1 Q. Do you know whether there were other people</p> <p>2 who were not plaintiffs in the case who attended</p> <p>3 those meetings?</p> <p>4 A. No.</p> <p>5 Q. So these were not solicitation meetings; is</p> <p>6 that correct? They weren't meetings: "Come here</p> <p>7 and we'll tell you how you can sign up for a</p> <p>8 lawsuit"?</p> <p>9 A. No.</p> <p>10 Q. They were meetings for people who were</p> <p>11 already involved in the lawsuit?</p> <p>12 A. Yes.</p> <p>13 Q. All right. That's all I need to know. Now,</p> <p>14 other than meetings that you may have had with</p> <p>15 your attorneys, have you attended any other</p> <p>16 meetings where this lawsuit had been discussed?</p> <p>17 A. No.</p> <p>18 Q. Have you attended any other meetings where</p> <p>19 the issues raised in this lawsuit have been</p> <p>20 discussed?</p> <p>21 A. No.</p> <p>22 Q. Other than this friend who gave you the</p> <p>23 phone number for the lawsuit, have you discussed</p>                               | <p style="text-align: right;">17</p> <p>1 Q. Okay. Well, you've given me one so far,</p> <p>2 which is an issue relating to break time.</p> <p>3 Can you give me examples of the other issues</p> <p>4 that you are raising in this litigation?</p> <p>5 A. I think we should make more money than what</p> <p>6 we do.</p> <p>7 Q. All right. You're talking about --</p> <p>8 A. I ain't got nothing to say about that.</p> <p>9 Q. So then you're talking about your hourly</p> <p>10 rate, what you're paid for each hour that you</p> <p>11 work; is that --</p> <p>12 A. Everybody says they're underpaying us, so I</p> <p>13 can't really say.</p> <p>14 Q. Can you think of any other specific examples</p> <p>15 of things that you believe you should be paid more</p> <p>16 for?</p> <p>17 A. I could think about this, because people</p> <p>18 been coming in making the same thing I make after</p> <p>19 90 days. That's not right. How can you make the</p> <p>20 same thing in 90 days? I been there almost eight</p> <p>21 years. You know, it ain't right.</p> <p>22 Q. So part of your problem is that after people</p> <p>23 have finished their probationary period, they are</p> |

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| <p style="text-align: right;">18</p> <p>1 making the same hourly wage as you are?</p> <p>2 A. Yes. I don't think that's not fair.</p> <p>3 Q. With regards to this issue about the hourly</p> <p>4 rates, have you ever raised this with a supervisor</p> <p>5 or discussed it with somebody in management?</p> <p>6 A. No.</p> <p>7 Q. You've just discussed this with other</p> <p>8 employees; is that correct? or have you not</p> <p>9 discussed it with anyone?</p> <p>10 A. I don't discuss it.</p> <p>11 Q. What about this issue about break time?</p> <p>12 Have you discussed that with your supervisor or</p> <p>13 someone in management?</p> <p>14 A. No.</p> <p>15 Q. Have you discussed it with anybody other</p> <p>16 than your attorney?</p> <p>17 A. No.</p> <p>18 Q. And when you say that you have issues about</p> <p>19 break time, can you describe for me exactly what</p> <p>20 your problem is related to break time?</p> <p>21 A. They give you a 30-minute break. By the</p> <p>22 time you sanitize and wash down, you've spent</p> <p>23 about ten minutes of your break taking stuff off.</p> | <p style="text-align: right;">20</p> <p>1 MR. CAMP: Are you in packout at the</p> <p>2 slaughter plant or at the cook plant?</p> <p>3 THE WITNESS: I got transferred. I'm</p> <p>4 not in debone no more.</p> <p>5 MR. GOULD: You know, that's a good</p> <p>6 question. I should have --</p> <p>7 THE WITNESS: 'Cause, see, I</p> <p>8 transferred. I used to be in debone; I'm not in</p> <p>9 debone anymore. I transferred to packout.</p> <p>10 Q. Okay. So are you working in packout in the</p> <p>11 fresh plant or in the cook plant?</p> <p>12 A. I'm in the cook plant. I transferred.</p> <p>13 Q. Okay. So for the past three years, you've</p> <p>14 been working in the cook plant?</p> <p>15 A. Yeah. Last two years.</p> <p>16 Q. All right.</p> <p>17 MR. GOULD: Thank you for your help on</p> <p>18 that.</p> <p>19 A. I transferred.</p> <p>20 Q. Okay. I apologize.</p> <p>21 A. I ain't been in debone for two or three</p> <p>22 years. I transferred.</p> <p>23 Q. Okay. So you work in the cook plant now?</p>  |
| <p style="text-align: right;">19</p> <p>1 You spend most of your time taking stuff off on</p> <p>2 your break. You don't have time for lunch.</p> <p>3 That's what I'm talking about. I don't have</p> <p>4 anything else to say about that.</p> <p>5 Q. I'm going to ask you some questions about</p> <p>6 your work in the packout area right now.</p> <p>7 In terms of your position in packout, are</p> <p>8 there any items of clothing or equipment that you</p> <p>9 have to wear when you are out on the production</p> <p>10 floor?</p> <p>11 A. Yeah. You have to wear hair nets, earplugs,</p> <p>12 liners, rubber gloves, sleeves, the smock, and you</p> <p>13 have to wear boots.</p> <p>14 Q. Do you have to wear an apron?</p> <p>15 A. Over in packout, not the apron. I work in</p> <p>16 packout.</p> <p>17 Q. So you don't have to wear an apron in</p> <p>18 packout?</p> <p>19 A. No.</p> <p>20 Q. You could wear an apron if you wanted to; is</p> <p>21 that correct?</p> <p>22 A. You don't need to. That's laydown. I'm in</p> <p>23 packout.</p>   | <p style="text-align: right;">21</p> <p>1 A. Now I do.</p> <p>2 Q. But prior to that, you worked in debone for</p> <p>3 a period of time?</p> <p>4 A. Yeah, a couple of years. And then all this</p> <p>5 stuff changed.</p> <p>6 Q. Okay. Well, then I'm going to stop asking</p> <p>7 you questions about packout, because I'm only</p> <p>8 concerned about the positions in which you worked</p> <p>9 in the fresh plant.</p> <p>10 A. Okay.</p> <p>11 Q. So then just so I'm clear, when you were</p> <p>12 talking about your issue with the wage and that</p> <p>13 someone who works 90 days is getting paid the same</p> <p>14 as you, did that also apply to the time that you</p> <p>15 were working in debone, that concern?</p> <p>16 A. No. They didn't start doing that, not too</p> <p>17 long ago.</p> <p>18 Q. Okay. Now, the issue about that related to</p> <p>19 having to put on or take stuff on before and after</p> <p>20 breaks, does that also apply to your time that you</p> <p>21 were working in debone?</p> <p>22 A. Yes.</p> <p>23 Q. Now, I believe you told me that when you</p> |

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| <p style="text-align: right;">22</p> <p>1 worked in debone, you worked on one of the debone</p> <p>2 lines; is that correct?</p> <p>3 A. Yes. Line 4.</p> <p>4 Q. And you worked on the debone line for</p> <p>5 approximately three years; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Two and a half to three years?</p> <p>8 A. Yes. I think it was about three I worked</p> <p>9 over there doing that.</p> <p>10 Q. So somewhere between two and three years?</p> <p>11 A. Yes.</p> <p>12 Q. Now, during the time that you were working</p> <p>13 on the debone line, did you have items of clothing</p> <p>14 or equipment that you had to wear when you were</p> <p>15 out on the production floor?</p> <p>16 A. Yes.</p> <p>17 Q. And can you list those for me, please?</p> <p>18 A. Hair nets, earplugs, sleeves, liners, cotton</p> <p>19 gloves, chain gloves, and you had to have boots</p> <p>20 on, and a smock, plastic apron, and you could wear</p> <p>21 shoe covers.</p> <p>22 Q. So when you say shoe covers, is that</p> <p>23 something you could wear over your shoes?</p> | <p style="text-align: right;">24</p> <p>1 THE WITNESS: You couldn't wear them</p> <p>2 outside. They stopped us from wearing them</p> <p>3 outside.</p> <p>4 Q. Was there a time, during the time you were</p> <p>5 working in debone, that you were able to wear your</p> <p>6 boots outside?</p> <p>7 A. At first they did. They stopped us from</p> <p>8 wearing them like that. We couldn't wear them</p> <p>9 outside.</p> <p>10 Q. So when you first started on debone, you</p> <p>11 could wear your boots outside; and then there was</p> <p>12 a point in time where you were not allowed to wear</p> <p>13 your boots outside; is that correct?</p> <p>14 A. Yes. They stopped it.</p> <p>15 Q. And then was there a period of time again</p> <p>16 that you were able to wear your boots outside?</p> <p>17 A. I don't know about now, because I'm not over</p> <p>18 there. I can just say about when I was over</p> <p>19 there. I can't say, because I'm not over there no</p> <p>20 more.</p> <p>21 Q. Now, other questions I'm going to ask you</p> <p>22 right now are just about debone. Unless I tell</p> <p>23 you differently, you can just assume that every</p> |
| <p style="text-align: right;">23</p> <p>1 A. You could wear tennis shoes and have a shoe</p> <p>2 cover over it.</p> <p>3 Q. It's kind of like a rubber boot that goes</p> <p>4 over your shoe?</p> <p>5 A. Yes.</p> <p>6 Q. Now, during the time --</p> <p>7 A. And an arm guard.</p> <p>8 Q. All right. That's a hard plastic arm guard?</p> <p>9 A. Yes.</p> <p>10 Q. Now, during the time that you were working</p> <p>11 in debone, could you wear your boots from home?</p> <p>12 A. They stopped that. They wouldn't let you</p> <p>13 wear them outside.</p> <p>14 Q. Did that happen while you were working on</p> <p>15 the debone line?</p> <p>16 A. Yes.</p> <p>17 Q. During the time that you were working on the</p> <p>18 debone line, were you able to wear your boots</p> <p>19 outside?</p> <p>20 A. They stopped us from wearing our boots</p> <p>21 outside.</p> <p>22 MR. CAMP: They stopped you from</p> <p>23 wearing your boots outside?</p>   | <p style="text-align: right;">25</p> <p>1 question I ask you is about the debone work.</p> <p>2 Okay?</p> <p>3 A. All right.</p> <p>4 Q. When you would show up at the plant, would</p> <p>5 you drive yourself to work?</p> <p>6 A. Yes, I would drive myself.</p> <p>7 Q. And did you have to clear any sort of</p> <p>8 security to enter the plant?</p> <p>9 A. Yes. There was security there every</p> <p>10 morning.</p> <p>11 Q. Was there a guard house on the driveway to</p> <p>12 the plant?</p> <p>13 A. Security in the gate. Security always on</p> <p>14 duty 24 hours a day.</p> <p>15 Q. Would you have to stop and have your car</p> <p>16 searched or anything like that?</p> <p>17 A. If you got that sticker on the windshield,</p> <p>18 you go right through the gate; if you ain't got</p> <p>19 that sticker, they give you a pass.</p> <p>20 Q. So if you have a sticker on your car, you</p> <p>21 can just drive right through?</p> <p>22 A. Just go on through.</p> <p>23 Q. Was there any other security you had to</p>  |

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| <p style="text-align: right;">26</p> <p>1 clear, like metal detectors or turnstiles or</p> <p>2 anything like that?</p> <p>3 A. No.</p> <p>4 Q. When you would walk into the building, what</p> <p>5 was the first thing you would normally do?</p> <p>6 A. I'd put on my hair net.</p> <p>7 Q. Would you have your hair net with you or</p> <p>8 would you have to go and get it?</p> <p>9 A. They stopped wearing that outside too. You</p> <p>10 had to go get your hair net every day. I had to</p> <p>11 change my hair net every morning.</p> <p>12 Q. So when you first walked into the building,</p> <p>13 would you have any of your work clothing or</p> <p>14 equipment with you? Would you be carrying it with</p> <p>15 you?</p> <p>16 A. Yes. Because at first, we had to wash our</p> <p>17 smocks. Take them home and wash them. But now,</p> <p>18 they wash them now.</p> <p>19 Q. So during the time that you were working on</p> <p>20 the debone line were you supposed to take your</p> <p>21 smock home and wash it?</p> <p>22 A. I used to have to wash it myself.</p> <p>23 Q. And during the time that you were working on</p> | <p style="text-align: right;">28</p> <p>1 Q. And the same with you carrying all your</p> <p>2 stuff home with you after your shift?</p> <p>3 A. Yeah. In my bag, yes.</p> <p>4 Q. Which shift did you work when you were</p> <p>5 working in debone?</p> <p>6 A. I worked first shift.</p> <p>7 Q. Is that day shift?</p> <p>8 A. Yeah. First. Day shift.</p> <p>9 Q. What time would your shift normally start?</p> <p>10 A. 7:30 to 4:30.</p> <p>11 MR. CAMP: When you get a chance, can I</p> <p>12 take, like, three minutes?</p> <p>13 MR. GOULD: Absolutely. We can do it</p> <p>14 right now.</p> <p>15 (A brief recess was taken.)</p> <p>16 (BY MR. GOULD)</p> <p>17 Q. What time would you normally arrive at the</p> <p>18 plant, prior to your shift?</p> <p>19 A. Different times. It varies.</p> <p>20 Q. Now, I think that we started discussing what</p> <p>21 you would do when you got to the plant. There</p> <p>22 were some things that you carried home with you</p> <p>23 and that you would be carrying back into the</p> |
| <p style="text-align: right;">27</p> <p>1 the debone line, did that change, where you would</p> <p>2 get a new one every day?</p> <p>3 A. I always had to wash my own smock.</p> <p>4 Q. So during the entire time you were on the</p> <p>5 debone line, you were responsible for washing your</p> <p>6 own smock?</p> <p>7 A. Yeah. I washed it my own self, yes.</p> <p>8 Q. Were there any other items that you would</p> <p>9 carry with you into the plant?</p> <p>10 A. I used to have my boots. Sometimes my boots</p> <p>11 would be in the locker. I had my boots, my apron,</p> <p>12 and my smock, and my gloves.</p> <p>13 Q. What about your arm guard?</p> <p>14 A. Yeah, my arm guard too.</p> <p>15 Q. So is it fair to say that at the end of your</p> <p>16 shift, you would normally carry all of your --</p> <p>17 A. Take it home and wash it every day -- every</p> <p>18 night.</p> <p>19 Q. And that was the same during the entire time</p> <p>20 you were working in the debone area?</p> <p>21 A. The entire time. I washed my own smocks</p> <p>22 when I was over there. I have washed them every</p> <p>23 day.</p>        | <p style="text-align: right;">29</p> <p>1 plant?</p> <p>2 A. My smock and stuff, apron, gloves, boots.</p> <p>3 Q. What would you do after you entered the</p> <p>4 plant? Would you go to the supply room first?</p> <p>5 Would you go to the break room first? Would you</p> <p>6 clock in?</p> <p>7 A. I'd clock in first.</p> <p>8 Q. And where would you clock in?</p> <p>9 A. In the break room.</p> <p>10 Q. In the debone break room?</p> <p>11 A. Yes.</p> <p>12 Q. And did you have a locker?</p> <p>13 A. Yes. I went to my locker too.</p> <p>14 Q. Was your locker in the debone break room?</p> <p>15 A. It was next to the break room. They had a</p> <p>16 locker room there.</p> <p>17 Q. It was attached to the break room; is that</p> <p>18 correct?</p> <p>19 A. Yeah. It wasn't far, like a high school,</p> <p>20 like.</p> <p>21 Q. Not far? So you would clock in, and then</p> <p>22 would you go to your locker?</p> <p>23 A. Yes.</p>   |



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| <p style="text-align: right;">30</p> <p>1 Q. And what would you do next?</p> <p>2 A. Go to get my supplies.</p> <p>3 Q. So after that, you would go to the supply</p> <p>4 room. And what would you get there?</p> <p>5 A. Whatever I needed. Hair nets, if I need</p> <p>6 some, gloves, stuff like that.</p> <p>7 Q. Is there anything that you would pick up on</p> <p>8 a daily basis every day?</p> <p>9 A. Hair nets.</p> <p>10 Q. Other than that, you would pick up new items</p> <p>11 if the old ones were worn?</p> <p>12 A. I'd get gloves and a hair net about every</p> <p>13 day. I would get hair nets every day.</p> <p>14 Q. What about your apron?</p> <p>15 A. Not an apron every day.</p> <p>16 Q. What about your plastic sleeves? Would you</p> <p>17 replace those every day?</p> <p>18 A. No. I washed them. I don't replace them</p> <p>19 every day; I washed them. But the white smock, I</p> <p>20 washed it every day. I don't replace the plastic</p> <p>21 apron every day, but I washed it every day. Same</p> <p>22 thing with the gloves. I washed them every day.</p> <p>23 Q. And then after you would go to the supply</p> | <p style="text-align: right;">32</p> <p>1 A. No.</p> <p>2 Q. So it would spray it onto the floor and you</p> <p>3 would step into it?</p> <p>4 A. Somebody would do it, or the thing would do</p> <p>5 it. They had a automatic sanitizer thing.</p> <p>6 Somebody would spray it.</p> <p>7 Q. So when you said someone would spray it, can</p> <p>8 you describe how that worked?</p> <p>9 A. They had a plastic container thing they</p> <p>10 sprayed it out of. I've done forgot. It's been a</p> <p>11 while. I know you sanitize. I really don't</p> <p>12 remember.</p> <p>13 Q. But you don't exactly remember?</p> <p>14 A. I know we had to be sanitized down. I know</p> <p>15 that.</p> <p>16 Q. But do you remember how it actually worked?</p> <p>17 Was it like a foam? Was that what it was?</p> <p>18 A. Yeah. It was a foam, yeah.</p> <p>19 Q. Was there something that you would grab and</p> <p>20 spray down, or was there something that would be</p> <p>21 sitting in an area on the floor and you would walk</p> <p>22 through it?</p> <p>23 A. Yes. Something on the floor. I done forgot</p>  |
| <p style="text-align: right;">31</p> <p>1 room, what would you do next?</p> <p>2 A. I would go on the floor and start getting</p> <p>3 dressed.</p> <p>4 Q. Now, would you already be wearing any of</p> <p>5 your items of clothing or equipment?</p> <p>6 A. No. You had your hair net on. You get</p> <p>7 dressed on the floor.</p> <p>8 Q. Would you have your boots or your shoe</p> <p>9 covers on?</p> <p>10 A. Boots and your hair nets on.</p> <p>11 Q. And then after you would pass through the</p> <p>12 doors, what would you do next?</p> <p>13 A. Sanitize.</p> <p>14 Q. Can you describe for me how you would do</p> <p>15 that?</p> <p>16 A. Automatic things. Automatic sanitize; it</p> <p>17 cleans your boots.</p> <p>18 Q. Can you explain for me how this automatic</p> <p>19 sanitizer worked?</p> <p>20 A. You walk in; they had somebody to spray your</p> <p>21 boots for you.</p> <p>22 Q. So did you have to grab something to</p> <p>23 sanitize your boots?</p>  | <p style="text-align: right;">33</p> <p>1 how it went, but I know it would be sanitized.</p> <p>2 It's been a while since I worked in that area.</p> <p>3 Q. Okay. And then what would you do after</p> <p>4 that?</p> <p>5 A. Start getting dressed.</p> <p>6 Q. And can you describe for me exactly what it</p> <p>7 is you would do in connection with getting</p> <p>8 dressed, getting ready to go on your spot on the</p> <p>9 line?</p> <p>10 A. I put my apron, smock on, the plastic. I</p> <p>11 put my liners on and plastic gloves on, my sleeves</p> <p>12 on, and be ready to go.</p> <p>13 Q. Would you have to wash and rinse anything?</p> <p>14 A. Wash your hands, yeah.</p> <p>15 Q. You say wash your hands?</p> <p>16 A. You would already have your gloves on.</p> <p>17 After I put my stuff on, I would wash my hands</p> <p>18 before I went on the line.</p> <p>19 Q. Approximately how long would it take you</p> <p>20 before you stepped through the production doors?</p> <p>21 A. It varies. Peoples be in there; be so</p> <p>22 crowded in there. I never did time it.</p> <p>23 Q. Now, you've also indicated that you wore a</p> |

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| <p style="text-align: right;">34</p> <p>1 chain glove; is that correct?</p> <p>2 A. Yeah. They give you one when you go on the</p> <p>3 line. The line leader issue you a chain glove</p> <p>4 out. And they give you a number. If you lose it,</p> <p>5 you get wrote up and sent home.</p> <p>6 Q. Were you responsible for getting a knife?</p> <p>7 A. Yes. On your line. It depends on what</p> <p>8 position you do once you get on the line.</p> <p>9 Q. So it's possible that you would need a knife</p> <p>10 or scissors?</p> <p>11 A. Yeah. You're going to need one of them.</p> <p>12 Q. But those would be brought to the line as</p> <p>13 well?</p> <p>14 A. Yes.</p> <p>15 Q. You weren't responsible for taking that home</p> <p>16 and cleaning it or anything?</p> <p>17 A. No. The line leader did that.</p> <p>18 Q. Now, did you get any breaks during the</p> <p>19 course of your day?</p> <p>20 A. Got two breaks. Two 30-minute breaks.</p> <p>21 Q. Was that the same throughout the time that</p> <p>22 you worked in debone?</p> <p>23 A. Yes.</p>   | <p style="text-align: right;">36</p> <p>1 Q. And then can you describe for me what you</p> <p>2 would do after that point, when the last bird</p> <p>3 passed whichever station you were working on?</p> <p>4 A. You had to wash down, hang your stuff up in</p> <p>5 there. Hang your clothes up. Take them off and</p> <p>6 go to the break room, whatever.</p> <p>7 Q. You could keep your boots on?</p> <p>8 A. You could keep your boots on, but you</p> <p>9 couldn't go outside with them on. You had to pull</p> <p>10 them off if you go out the door.</p> <p>11 Q. But you could go into the break room with</p> <p>12 them on?</p> <p>13 A. Yeah.</p> <p>14 Q. Now, approximately how long did it take you</p> <p>15 to wash down and take off the items of clothing or</p> <p>16 equipment when you were heading out for break?</p> <p>17 A. Like I told you, you don't have but about 20</p> <p>18 minutes to eat, really. No more than 20 minutes.</p> <p>19 Q. So you believe it would take you around 10</p> <p>20 minutes to get out?</p> <p>21 A. Five minutes to put on, five minute to take</p> <p>22 off. Like I told you.</p> <p>23 Q. Five minutes to get out to break?</p> |
| <p style="text-align: right;">35</p> <p>1 Q. Do you recall approximately at what times</p> <p>2 the breaks would occur?</p> <p>3 A. Different times. They done changed it now.</p> <p>4 When I was over there, everybody went at the same</p> <p>5 time. 30 minutes. It's done changed now.</p> <p>6 Q. When you say everybody went at the same</p> <p>7 time, you mean they would release all the debone</p> <p>8 at one time to go on break?</p> <p>9 A. Yeah. All at one time.</p> <p>10 Q. How would you know when you were able to go</p> <p>11 out on break?</p> <p>12 A. Because when the line leader stopped -- when</p> <p>13 you finished the meat, we stopped, and you go to</p> <p>14 the break. If you be on the end of the line, you</p> <p>15 would be the last one to go. You didn't get no</p> <p>16 break because by the time you get to the sink and</p> <p>17 wash your hands, you have like 15 minutes to eat,</p> <p>18 by the time you wash down.</p> <p>19 Q. So I believe that you were saying that you</p> <p>20 could leave for break when the last bird passed</p> <p>21 your station?</p> <p>22 A. Right. When you work in your area, you</p> <p>23 cannot go until you finish your area.</p> | <p style="text-align: right;">37</p> <p>1 A. Yes.</p> <p>2 Q. And then you would stay in the break room</p> <p>3 for about 20 minutes?</p> <p>4 A. If that long. I was on the line. Used to,</p> <p>5 I be the last one to leave the line. I didn't</p> <p>6 have that long.</p> <p>7 Q. When you were working in the debone line,</p> <p>8 you would rotate positions; isn't that right?</p> <p>9 A. Rotate.</p> <p>10 Q. So if you started at one position, would you</p> <p>11 rotate when you came back from break to a</p> <p>12 different position?</p> <p>13 A. Yes.</p> <p>14 Q. And then you would go on break and rotate to</p> <p>15 another position?</p> <p>16 A. Rotate three times a day.</p> <p>17 Q. All right. So just so I'm clear, you're</p> <p>18 saying it would take you about five minutes to be</p> <p>19 able to get out to the break room; is that</p> <p>20 correct?</p> <p>21 A. Like I say, approximately you had 20 minutes</p> <p>22 to eat. I never did look at the clock timing it.</p> <p>23 I know approximately 15 to 20 minutes to eat.</p>   |

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| <p style="text-align: right;">38</p> <p>1 Putting on and off, I have never really did watch<br/>2 it in there on the debone floor.<br/>3 Q. Was that the same for your second break?<br/>4 A. Same thing. 30-minute break.<br/>5 Q. And about the same thing going to and coming<br/>6 back?<br/>7 A. Yes, same thing. You better get there on<br/>8 time or they would write you up.<br/>9 Q. Can you describe for me what would happen at<br/>10 the end of your shift? How would you know that<br/>11 your shift was over? Would it be the same thing?<br/>12 A. When the last thing get to you, go wash down<br/>13 and get out of there. Make sure you leave your<br/>14 tools in front of you. The line leader would pick<br/>15 them up. She had a little container to put them<br/>16 in.<br/>17 Q. So you would leave your chain glove and your<br/>18 knife or your scissors at the line?<br/>19 A. Yeah. They would pick it up.<br/>20 Q. So you didn't have to wash those; is that<br/>21 correct?<br/>22 A. No. No. The line leader did it.<br/>23 Q. Can you describe what you would do when you</p> | <p style="text-align: right;">40</p> <p>1 Q. And what about your plastic arm guard?<br/>2 A. Take it home and wash it. I have washed it<br/>3 down in the sink, but I'd wash it again though.<br/>4 Q. And you would take those items off and --<br/>5 A. Put them in a bag, take them home and wash<br/>6 them every night.<br/>7 Q. What would you do with your smock?<br/>8 A. I took it home and washed it.<br/>9 Q. You would take off your smock in the<br/>10 production area as well?<br/>11 A. Yeah, you take it off in there.<br/>12 Q. What about your boots -- your shoe covers?<br/>13 A. You have to wear boots. You keep them on.<br/>14 You keep the boots on in the production area. You<br/>15 pull them off in the locker room. You keep them<br/>16 on until you get in the locker room. You can't<br/>17 wear them outside.<br/>18 Q. Now, approximately how long would it take<br/>19 you, from the time you left the line until the<br/>20 time you left the production floor, to do those<br/>21 tasks?<br/>22 A. I don't know. I never did time it. I can't<br/>23 really say. I didn't have a watch on. I didn't</p> |
| <p style="text-align: right;">39</p> <p>1 left the line at the end of your shift?<br/>2 A. The line leader picked your stuff up. Then<br/>3 you washed down.<br/>4 Q. So can you describe what it is you would do?<br/>5 A. Yeah. I sanitized my smock and stuff. When<br/>6 I got home, I washed it because the thing would be<br/>7 so greasy.<br/>8 Q. I understand. So at the end of your shift,<br/>9 you would leave the line and you would rinse off<br/>10 your apron and your gloves; is that correct, and<br/>11 your sleeves?<br/>12 A. When I'd leave the line, I would wash down<br/>13 my apron and gloves.<br/>14 Q. And what about your sleeves?<br/>15 A. Yes, I'd wash them down.<br/>16 Q. And then what would you do when you were<br/>17 finished with that?<br/>18 A. I sanitized my boots. When I'd get home,<br/>19 I'd wash it.<br/>20 Q. Okay. Now, after you finished rinsing down<br/>21 your apron and your gloves and your sleeves, would<br/>22 you then take them off?<br/>23 A. Yes.</p>  | <p style="text-align: right;">41</p> <p>1 time it, so I really can't tell. I never did time<br/>2 it.<br/>3 Q. Then after you left the production floor,<br/>4 what would you do next?<br/>5 A. I'd go to my locker.<br/>6 Q. Okay. And you would take off your boots?<br/>7 A. Uh-huh. And put my tennis shoes on, put<br/>8 them in a plastic bag. Took them home and washed<br/>9 them. Clocked out and went home.<br/>10 Q. Now, do you have an understanding as to,<br/>11 while you were working in debone, how the number<br/>12 of hours for which you were paid, how that was<br/>13 calculated?<br/>14 A. What you say now?<br/>15 Q. Do you have an understanding as to how your<br/>16 hours worked were calculated? How they came up<br/>17 with the hours worked for you that they paid you<br/>18 for?<br/>19 A. No.<br/>20 (Defendant's Exhibit No. 1 was<br/>21 marked for identification and a<br/>22 copy of the same is attached<br/>23 hereto.)</p>   |



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| <p style="text-align: right;">42</p> <p>1 Q. Ms. Kennedy, I'm going to show you what's<br/>2 been marked as Exhibit 1 to your deposition. For<br/>3 purposes of identification, it's a four-page<br/>4 document titled "Declaration" at the top.<br/>5 You can take a second to look at this, and<br/>6 then tell me if you recognize it.<br/>7 (The witness examines the<br/>8 document.)<br/>9 Q. Ma'am, is that your signature on page 3 of<br/>10 the document?<br/>11 A. Yes.<br/>12 Q. Do you remember being presented with this<br/>13 Declaration and signing it?<br/>14 A. Yes.<br/>15 Q. I want to ask you a few questions about it.<br/>16 On page 2, there's a paragraph No. 7. Do you see<br/>17 that number 7, about the middle of the page?<br/>18 A. Uh-huh.<br/>19 Q. In there, there is a discussion as to how<br/>20 hours worked were recorded. I believe it states<br/>21 in there that, "...hours worked are recorded under<br/>22 a system known as line time, master time, master<br/>23 key, gang time, etc., (generally referred to as</p>   | <p style="text-align: right;">44</p> <p>1 you given a draft of it? Did you review it and<br/>2 give any comments back on this particular<br/>3 document?<br/>4 A. Give any comments back?<br/>5 Q. This document, is this just something that<br/>6 was presented to you and you signed?<br/>7 A. Uh-huh.<br/>8 Q. Or was something given to you, you read it<br/>9 over, and you said, "Well, this might not be<br/>10 right; this needs to be changed"? Did you provide<br/>11 any revisions to it?<br/>12 A. No.<br/>13 Q. This was just something that was provided to<br/>14 you?<br/>15 A. I read it and signed it, yes.<br/>16 Q. So this is not something that you prepared<br/>17 yourself; is that correct?<br/>18 A. No.<br/>19 Q. Can you turn to page 3 of that document,<br/>20 ma'am?<br/>21 A. (Witness complies.)<br/>22 Q. I'd like you to look at paragraph No. 10.<br/>23 And that Declaration makes several statements in</p>   |
| <p style="text-align: right;">43</p> <p>1 'master time')."<br/>2 Does that have any particular meaning to<br/>3 you? Do you understand what that means?<br/>4 A. Just saying that -- what you say, now?<br/>5 Q. I'm just reading from your Declaration here<br/>6 in paragraph 7. Right in the middle of paragraph<br/>7 7, do you see where it says, "Instead..."?<br/>8 A. Oh, okay. You say what do it mean to me?<br/>9 Q. Yes, ma'am. Did you understand what this<br/>10 meant when you signed it?<br/>11 A. Saying, like, we still be working, and<br/>12 master time, before we get through working, they<br/>13 swipe the master time clock, and we're still<br/>14 working. We be working late and we didn't get<br/>15 paid for it. That's what about that.<br/>16 Q. So is that what you were talking about, that<br/>17 you were still working after you stopped being<br/>18 paid?<br/>19 A. Yeah. We used to work late and we didn't<br/>20 get paid for it. Because at that time, they<br/>21 swiped a master clock; and we was still working<br/>22 and they wasn't paying us.<br/>23 Q. Ms. Kennedy, before you signed this, were</p> | <p style="text-align: right;">45</p> <p>1 paragraph No. 10, but I want to ask you some<br/>2 questions, first of all, about the last sentence<br/>3 in paragraph No. 10.<br/>4 It states, "To that end, Defendant and its<br/>5 managers have attempted to discourage and/or<br/>6 intimidate my coworkers from joining this lawsuit<br/>7 by issuing both express and implied threats<br/>8 involving job security."<br/>9 Did you read that before you signed this<br/>10 document?<br/>11 A. Yeah, I read it.<br/>12 Q. Can you describe for me any knowledge you<br/>13 have of anyone attempting to discourage or<br/>14 intimidate coworkers from joining this lawsuit by<br/>15 issuing both express and implied threats involving<br/>16 job security?<br/>17 A. No. Ain't nobody never said nothing to me<br/>18 about this lawsuit. I ain't had no problem with<br/>19 my job about that. I ain't had a problem, not so<br/>20 far.<br/>21 Q. All right. Are you aware of any instances<br/>22 where any other employees have indicated to you<br/>23 that someone stated to them that their job</p> |

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| <p style="text-align: right;">46</p> <p>1 security could be at issue if they joined this</p> <p>2 lawsuit?</p> <p>3 A. No.</p> <p>4 Q. So is it correct then that you have no</p> <p>5 knowledge as to any statements by anyone employed</p> <p>6 at Equity Group that have attempted to discourage</p> <p>7 or intimidate your coworkers from joining this</p> <p>8 lawsuit; is that correct?</p> <p>9 A. No. I ain't heard nobody say nothing about</p> <p>10 that.</p> <p>11 Q. All right. That's all the questions I have</p> <p>12 for you. Thank you, ma'am.</p> <p>13 MR. CAMP: I'm going to ask a couple of</p> <p>14 questions.</p> <p>15 BY MR. CAMP:</p> <p>16 Q. You said a friend gave you a phone number,</p> <p>17 and you called the firm?</p> <p>18 A. Yes.</p> <p>19 Q. And did you describe to the firm what your</p> <p>20 complaints were at that time related to the</p> <p>21 lawsuit?</p> <p>22 A. I told them, said we were underpaid.</p> <p>23 Q. And did you understand that this law firm</p>  | <p style="text-align: right;">48</p> <p>1 production plant?</p> <p>2 A. I would go to the supply room.</p> <p>3 Q. Okay. Is that where you would get --</p> <p>4 A. Gloves and stuff, hair nets.</p> <p>5 Q. Okay. Still gathering up the stuff that you</p> <p>6 need to wear for the day?</p> <p>7 A. Yes.</p> <p>8 Q. You would then go out to production through</p> <p>9 the double doors?</p> <p>10 A. Yeah. You have to be dressed when you go in</p> <p>11 there.</p> <p>12 Q. Okay.</p> <p>13 A. No. You had to wear your hair nets through</p> <p>14 the double doors and your boots, but you get</p> <p>15 dressed on the production floor.</p> <p>16 Q. So when you went through the double doors,</p> <p>17 you said you had to sanitize your boots?</p> <p>18 A. Yes.</p> <p>19 Q. You said it was an automatic sanitizer?</p> <p>20 A. Yes. Something to spray you. You pass by,</p> <p>21 they spray your boots.</p> <p>22 Q. Was it -- was the sanitizer set up where</p> <p>23 there were like spray nozzles that would spray</p> |
| <p style="text-align: right;">47</p> <p>1 seeks to get you pay for all hours that you work?</p> <p>2 A. Yeah.</p> <p>3 Q. And the issues related to the wage</p> <p>4 complaints, the 90-day issue and what not that we</p> <p>5 discussed related to the cook plant or while you</p> <p>6 were at the cook plant, you understand that this</p> <p>7 lawsuit has nothing to do with that?</p> <p>8 A. Yes.</p> <p>9 Q. Let me just go through -- tell me if I get</p> <p>10 the series wrong.</p> <p>11 You would come in; you would clock in -- and</p> <p>12 say yes after. I'll pause, and you tell me if I'm</p> <p>13 right or wrong, yes or no.</p> <p>14 A. Okay.</p> <p>15 Q. You would come in in the morning and clock</p> <p>16 in?</p> <p>17 A. Yes.</p> <p>18 Q. You would then go and obtain your equipment</p> <p>19 your personal protective equipment, whatever you</p> <p>20 needed for the day to wear?</p> <p>21 A. Yeah. I clock in, then I go to my locker</p> <p>22 and put my lunch and stuff in there. Yeah.</p> <p>23 Q. Okay. You would then go out to the</p> | <p style="text-align: right;">49</p> <p>1 towards your boots and on your boots?</p> <p>2 A. Yeah. You pass by, it would spray your</p> <p>3 boots.</p> <p>4 Q. You would have to pass by it and it would</p> <p>5 start to spray?</p> <p>6 A. Yes.</p> <p>7 Q. It wasn't constantly spraying?</p> <p>8 A. No.</p> <p>9 Q. Okay. Did you have to stop or could you</p> <p>10 just walk right through it? What was the</p> <p>11 procedure for getting the boots sanitized?</p> <p>12 A. You pass by, stop for a minute, and it would</p> <p>13 spray your boots. You pass by it.</p> <p>14 Q. Then you would go out the next door?</p> <p>15 A. Yeah.</p> <p>16 Q. And then you would put everything on?</p> <p>17 A. Yes.</p> <p>18 Q. Did you wash anything at that point?</p> <p>19 A. You wash your hands with soap, sanitize your</p> <p>20 hands.</p> <p>21 Q. Would that be the rubber gloves?</p> <p>22 A. Rubber gloves, yeah.</p> <p>23 Q. And then you would --</p>   |

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| <p style="text-align: right;">50</p> <p>1 A. Go to the line.</p> <p>2 Q. -- go to line?</p> <p>3 A. Yeah.</p> <p>4 Q. And then on breaks, you would reverse? You</p> <p>5 would take the items off?</p> <p>6 A. Yes.</p> <p>7 Q. Everything but your boots and your hair net?</p> <p>8 A. Yes.</p> <p>9 Q. Would you sanitize -- would you wash</p> <p>10 anything at that point, your apron or gloves or</p> <p>11 anything?</p> <p>12 A. Yeah. You wash your apron and stuff off.</p> <p>13 Apron and gloves, arm guard, all that, wash it</p> <p>14 off.</p> <p>15 Q. And then you would go to break?</p> <p>16 A. Yes.</p> <p>17 Q. Then you would come off of break. You would</p> <p>18 go back through the boot sanitizer?</p> <p>19 A. Yes.</p> <p>20 Q. Same procedure?</p> <p>21 A. Yes.</p> <p>22 Q. Put the items back on, just like you did in</p> <p>23 the morning?</p>  | <p style="text-align: right;">52</p> <p>1 A. No. I had to take them home and wash them.</p> <p>2 Q. Okay. And you would take it home and you</p> <p>3 would wash it?</p> <p>4 A. Wash them.</p> <p>5 Q. That's it.</p> <p>6 MR. GOULD: I don't have anything else.</p> <p>7 That's fine.</p> <p>8</p> <p>9 (The deposition was concluded.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">51</p> <p>1 A. Yes.</p> <p>2 Q. Would you wash it again?</p> <p>3 A. Yes. You've got to sanitize it down at the</p> <p>4 line, wash your hands.</p> <p>5 Q. And then you would walk back out to the</p> <p>6 line?</p> <p>7 A. Yes.</p> <p>8 Q. And it was like that on both breaks?</p> <p>9 A. Both breaks.</p> <p>10 Q. At the end of the day, you would leave the</p> <p>11 line; you would take everything off?</p> <p>12 A. Yes.</p> <p>13 Q. Would you sanitize those items, wash those</p> <p>14 items?</p> <p>15 A. Yes.</p> <p>16 Q. You would walk out the double doors?</p> <p>17 A. Yes.</p> <p>18 Q. And you've got to take your --</p> <p>19 A. Hair net. Take your boots off. When you</p> <p>20 get out of processing. You have to take your</p> <p>21 boots off when you go out the door.</p> <p>22 Q. Okay. But the smock you took home? You</p> <p>23 didn't deposit the smock somewhere?</p> | <p style="text-align: right;">53</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 BARBOUR COUNTY</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription, and that the foregoing represents</p> <p>11 a true and correct transcript of the testimony</p> <p>12 given by said witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor kin to the parties to the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18</p> <p>19 CYNTHIA M. NOAKES, Commissioner</p> <p>20 Certified Court Reporter,</p> <p>21 ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23 Commission Expires 07/08/2009</p> |

**TAB 28**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
TRACY LEONARD KENNEDY

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## MERRILL LEGAL SOLUTIONS

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of TRACY LEONARD</p> <p>6 KENNEDY may be taken before Cynthia M. Noakes,</p> <p>7 Court Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 22nd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-34, 34-35</p> <p>4   MR. KISER                 34, 35</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   (No exhibits were</p> <p>8   submitted to said deposition.)</p> <p>9</p> <p>10   Reporter's Certificate           36</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. JACOB A. KISER</p> <p>5       WIGGINS, CHILDS,</p> <p>6       QUINN &amp; PANTAZIS, LLC</p> <p>7       ATTORNEYS AT LAW</p> <p>8       The Kress Building</p> <p>9       301 Nineteenth Street North</p> <p>10      Birmingham, Alabama 35203</p> <p>11      (205) 314-0614</p> <p>12</p> <p>13   ON BEHALF OF THE DEFENDANT:</p> <p>14      MR. MALCOLM S. GOULD</p> <p>15      PELINO &amp; LENTZ</p> <p>16      ATTORNEYS AT LAW</p> <p>17      One Liberty Place</p> <p>18      Thirty-Second Floor</p> <p>19      1650 Market Street</p> <p>20      Philadelphia, Pennsylvania 19103</p> <p>21      (215) 665-1540</p> <p>22</p> <p>23   *****</p> |

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified<br/> 2 Court Reporter of Eufaula, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at the Law Offices of WILLIAMS,<br/> 7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange<br/> 8 Avenue, Eufaula, Alabama 36027, beginning at<br/> 9 9:15 a.m., TRACY LEONARD KENNEDY, witness in the<br/> 10 above cause, for oral examination, whereupon the<br/> 11 following proceedings were had:<br/> 12<br/> 13 TRACY LEONARD KENNEDY,<br/> 14 being first duly sworn, was examined and<br/> 15 testified as follows:<br/> 16<br/> 17 THE COURT REPORTER: Usual<br/> 18 stipulations?<br/> 19 MR. KISER: Yes.<br/> 20 MR. GOULD: Yes.<br/> 21<br/> 22 EXAMINATION<br/> 23 BY MR. GOULD:</p>   | <p style="text-align: right;">8</p> <p>1 my whole question before you give your answer.<br/> 2 Okay?<br/> 3 A. Okay.<br/> 4 Q. Now, if at any time I ask a question and you<br/> 5 don't understand what I've asked, just ask me to<br/> 6 repeat the question or ask it again, and I'll try<br/> 7 and phrase the question in a way that maybe isn't<br/> 8 so confusing.<br/> 9 If, during the course of the deposition, you<br/> 10 just don't know the answer to a question, it's<br/> 11 perfectly acceptable to say "I don't know" or "I<br/> 12 don't remember." I'd much rather you do that than<br/> 13 just try and guess. Okay?<br/> 14 A. Okay.<br/> 15 Q. And I don't anticipate that the deposition<br/> 16 will take long, but if you feel you need a break,<br/> 17 just let me know and we can take a break.<br/> 18 A. Yes, sir.<br/> 19 Q. Can you state your full name for the record,<br/> 20 please?<br/> 21 A. Tracy Leonard Kennedy.<br/> 22 Q. And, Mr. Kennedy, what's your home address?<br/> 23 A. 8 Lonnie Wilson Road.</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good morning, Mr. Kennedy.<br/> 2 A. Good morning.<br/> 3 Q. My name is Malcolm Gould. I'm an attorney<br/> 4 from the law firm of Pelino &amp; Lentz in<br/> 5 Philadelphia. I represent the Defendant Equity<br/> 6 Group Eufaula Division, LLC, in a lawsuit that's<br/> 7 been filed in the Federal Court in the Middle of<br/> 8 Alabama. You're a plaintiff in that case, and<br/> 9 we're here to take your deposition today.<br/> 10 There are a few ground rules for the<br/> 11 deposition that will hopefully make it run a<br/> 12 little smoother.<br/> 13 As you can see, we have a court reporter<br/> 14 here. She's taking down my questions and your<br/> 15 answers, so I would ask that you keep all of your<br/> 16 responses verbal and say yes or no, instead of<br/> 17 nodding your head or shaking your head. That way,<br/> 18 she can take down your responses. It's difficult<br/> 19 for her to take down a nonverbal response.<br/> 20 I would also ask that you wait until I<br/> 21 finish my question before you give your answer.<br/> 22 That will make it easier for her to take down my<br/> 23 question and your answer. That way you also hear</p> | <p style="text-align: right;">9</p> <p>1 Q. And that's here in Eufaula?<br/> 2 A. Clayton.<br/> 3 Q. Okay. And are you currently employed, Mr.<br/> 4 Kennedy?<br/> 5 A. (No response.)<br/> 6 Q. Are you employed? Do you have a job?<br/> 7 A. Yes.<br/> 8 Q. And where do you work?<br/> 9 A. At the plant.<br/> 10 Q. Okay. So you still work at the plant in<br/> 11 Baker Hill?<br/> 12 A. Yes.<br/> 13 Q. And what position do you work in?<br/> 14 A. Debone.<br/> 15 Q. Do you work on one of the debone lines?<br/> 16 A. Yes.<br/> 17 Q. And how long have you worked at the plant?<br/> 18 A. Going on three years.<br/> 19 Q. And have you worked on the debone line that<br/> 20 entire time?<br/> 21 A. Yes.<br/> 22 Q. And have you worked there continuously<br/> 23 throughout that three-year period? You've worked</p>   |



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| <p style="text-align: right;">10</p> <p>1 there the whole time?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Now, Mr. Kennedy, how did you first find out</p> <p>4 about this lawsuit?</p> <p>5 A. I don't remember.</p> <p>6 Q. Okay. Have you attended any meetings, other</p> <p>7 than meetings with your attorneys, where people</p> <p>8 have discussed this lawsuit?</p> <p>9 A. No, sir.</p> <p>10 Q. Other than meetings with your attorneys,</p> <p>11 have you discussed this lawsuit with anybody else?</p> <p>12 A. No, sir.</p> <p>13 Q. Sir, are you a member of the union?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know which union that is?</p> <p>16 A. No, sir.</p> <p>17 Q. Do you have money taken out of your paycheck</p> <p>18 each week for union dues?</p> <p>19 A. Yes.</p> <p>20 Q. Do you ever attend union meetings?</p> <p>21 A. No, sir.</p> <p>22 Q. Are you aware of the names of any of the</p> <p>23 people who are your union stewards or your union</p>                                    | <p style="text-align: right;">12</p> <p>1 MR. KISER: We're going to have a</p> <p>2 standard objection to PPE as clothing. You can</p> <p>3 answer the question.</p> <p>4 A. Yes.</p> <p>5 Q. Can you identify those items for me?</p> <p>6 A. Chain glove, cotton liners, rubber gloves,</p> <p>7 the arm guard, the apron, the sleeves, the</p> <p>8 earplugs, the hair net, beard net, boots, and the</p> <p>9 white coat thing.</p> <p>10 Q. The smock?</p> <p>11 A. Uh-huh.</p> <p>12 Q. And do you wear all of those items every</p> <p>13 day?</p> <p>14 A. Yes.</p> <p>15 Q. Are you allowed to wear your boots from</p> <p>16 home?</p> <p>17 A. Yes, sir.</p> <p>18 Q. During the time you've been employed at the</p> <p>19 plant, has that been the case during the entire</p> <p>20 time you've been employed? Have you always been</p> <p>21 able to wear your boots from home?</p> <p>22 A. Yes.</p> <p>23 Q. Is there anything else that you can wear</p>  |
| <p style="text-align: right;">11</p> <p>1 representatives?</p> <p>2 A. Yes.</p> <p>3 Q. And whose names do you know?</p> <p>4 A. I can't call his name off the top right now.</p> <p>5 Q. All right. You would recognize them if you</p> <p>6 saw them, but you're not sure what their names</p> <p>7 are?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Mr. Kennedy, have you ever been</p> <p>10 involved in a lawsuit before?</p> <p>11 A. No, sir.</p> <p>12 Q. And, Mr. Kennedy, where did you work</p> <p>13 immediately before you started working at the</p> <p>14 plant in Baker Hill?</p> <p>15 A. I was helping my uncle.</p> <p>16 Q. And what sort of work was that?</p> <p>17 A. He had concrete.</p> <p>18 Q. Some sort of construction business?</p> <p>19 A. Yes.</p> <p>20 Q. Now, in connection with your work at the</p> <p>21 plant in Baker Hill on the debone line, are there</p> <p>22 any items of clothing or equipment that you have</p> <p>23 to wear when you're out on the production floor?</p> | <p style="text-align: right;">13</p> <p>1 from home, out of those items you've identified</p> <p>2 for me?</p> <p>3 A. Just the boots.</p> <p>4 Q. Do you normally drive yourself to work?</p> <p>5 A. Yes.</p> <p>6 Q. When you arrive at the plant, is there any</p> <p>7 sort of security that you have to clear?</p> <p>8 A. You've got to -- if you ain't got the</p> <p>9 sticker on your car, you've got to stop at the</p> <p>10 guard shack, and they give you a little card to</p> <p>11 get through.</p> <p>12 Q. You have to show your employee pass and they</p> <p>13 will let you get through, if you don't have a</p> <p>14 sticker on your car?</p> <p>15 A. Yes.</p> <p>16 Q. Other than that, after you pull into the</p> <p>17 parking lot, is there any other security you have</p> <p>18 to go through?</p> <p>19 A. There will be some walking around checking</p> <p>20 the area.</p> <p>21 Q. So there's a security force that polices the</p> <p>22 area; is that what you're saying?</p> <p>23 A. Uh-huh.</p> |



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| <p style="text-align: right;">14</p> <p>1 Q. But you don't have to go through any metal<br/>2 detectors or turnstiles or anything like that?<br/>3 A. No, sir.<br/>4 Q. Are you aware if, under your current union<br/>5 contract, whether you are paid any time for<br/>6 putting on or taking off or washing any of your<br/>7 items of clothing or equipment that you identified<br/>8 for me?<br/>9 A. I don't know.<br/>10 Q. Okay. Mr. Kennedy, after you park in the<br/>11 parking lot and then enter the building, can you<br/>12 describe for me what you would normally do?<br/>13 A. I clock in. Then I go get my -- the white<br/>14 thing.<br/>15 Q. The smock?<br/>16 A. Uh-huh.<br/>17 Q. And where do you get that?<br/>18 A. Down the hall.<br/>19 Q. All right. Is there a supply counter?<br/>20 A. Uh-huh.<br/>21 Q. And that's where you get it?<br/>22 A. Yes.<br/>23 Q. What shift are you working right now?</p> | <p style="text-align: right;">16</p> <p>1 and get a smock; is that correct?<br/>2 A. Yes.<br/>3 Q. When you enter the plant, are you carrying<br/>4 any of your other items of clothing or equipment<br/>5 with you?<br/>6 A. Yes.<br/>7 Q. What items are you normally carrying in with<br/>8 you?<br/>9 A. Apron and arm guard and rubber gloves and<br/>10 cotton liners and hair net and beard net and<br/>11 earplugs.<br/>12 Q. So pretty much everything except your smock?<br/>13 A. And chain glove.<br/>14 Q. And you get your chain glove out on the<br/>15 line; is that correct?<br/>16 A. Yes.<br/>17 Q. And after you clock in and then get your<br/>18 smock, what do you normally do next?<br/>19 A. Go to the machine and get me something to<br/>20 eat on.<br/>21 Q. So you go into the break room?<br/>22 A. Yes.<br/>23 Q. And that's right around the corner from the</p>   |
| <p style="text-align: right;">15</p> <p>1 A. First.<br/>2 Q. Day shift?<br/>3 A. Uh-huh.<br/>4 Q. That's yes?<br/>5 A. Yes.<br/>6 Q. And have you worked day shift the entire<br/>7 time you've worked at the plant?<br/>8 A. Yes.<br/>9 Q. What time does your shift start?<br/>10 A. 7:30.<br/>11 Q. 7:30 in the morning?<br/>12 A. Yes.<br/>13 Q. And do you have a scheduled end time for<br/>14 your shift?<br/>15 A. 4:30.<br/>16 Q. What time do you normally arrive at the<br/>17 plant, park in the parking lot?<br/>18 A. About 6:40.<br/>19 Q. And do you normally go right into the<br/>20 building?<br/>21 A. Yes.<br/>22 Q. All right. Now, I think you indicated to me<br/>23 that when you get into the plant, you'll clock in</p>  | <p style="text-align: right;">17</p> <p>1 supply room; is that correct?<br/>2 A. The break room is before you get to the...<br/>3 Q. Okay. I guess that depends on which door<br/>4 you use to enter the plant, correct?<br/>5 A. Yes.<br/>6 Q. Okay. And then you'll sit down and have<br/>7 something to eat before your shift starts?<br/>8 A. Yes.<br/>9 Q. What do you do after you've had something to<br/>10 eat? What do you do after you've finished having<br/>11 your snack or your meal?<br/>12 A. Wait until it's time to go in.<br/>13 Q. What time do you normally head into the<br/>14 production area?<br/>15 A. About 7:25.<br/>16 Q. And can you describe for me what it is you<br/>17 do when you leave the break room to head towards<br/>18 the production area, and then once you enter the<br/>19 production area?<br/>20 A. You open up the door, then you've got to<br/>21 walk through that stuff; then they've got little<br/>22 bitty things that you put your stuff when you get<br/>23 ready to put it on; then you've got to put all the</p> |

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| <p style="text-align: right;">18</p> <p>1 stuff on; then you go over to the sink and wash<br/> 2 everything. Then you go to the line; then get the<br/> 3 chain glove and put it on.<br/> 4 Q. Okay. So you said you would open the door<br/> 5 and walk through the stuff. Is that that foam<br/> 6 that's sitting on the floor?<br/> 7 A. Yes.<br/> 8 Q. And then you said you enter in. And there's<br/> 9 an area where you can put your clothes or<br/> 10 equipment on; is that correct?<br/> 11 A. Yes.<br/> 12 Q. There's an area where there's some racks,<br/> 13 and you can hang your stuff on there if you want<br/> 14 to?<br/> 15 A. Yes.<br/> 16 Q. And that's where you put on your smock,<br/> 17 apron, your gloves. Did you say you wore sleeves?<br/> 18 A. Yes.<br/> 19 Q. And you put on your sleeves there too; is<br/> 20 that correct?<br/> 21 A. Yes.<br/> 22 Q. Have you put on your hair net before you<br/> 23 entered the doors of the production area?</p> | <p style="text-align: right;">20</p> <p>1 line?<br/> 2 A. Yes.<br/> 3 Q. Now, during the course of a day, you'll<br/> 4 rotate between several positions on the debone<br/> 5 line; is that correct?<br/> 6 A. Yes.<br/> 7 Q. Do you have a set rotation that you do every<br/> 8 day, or do you work different positions on the<br/> 9 line on different days?<br/> 10 A. (No response.)<br/> 11 Q. When you start your shift, will you normally<br/> 12 start at the same spot on the line every day?<br/> 13 A. No, sir.<br/> 14 Q. Is it fair to say that you could work any<br/> 15 position on the debone line on a given day,<br/> 16 regardless of whether you start there or you<br/> 17 rotate there later in the day?<br/> 18 A. I don't understand.<br/> 19 Q. Okay. That's fine. I'll try and ask it in<br/> 20 a different way.<br/> 21 During the course of one particular day's<br/> 22 work, I think you indicated to me that you would<br/> 23 rotate between several different positions; is</p> |
| <p style="text-align: right;">19</p> <p>1 A. No, sir.<br/> 2 Q. You normally put that on as you're going<br/> 3 through?<br/> 4 A. You have to put that on when you get inside.<br/> 5 Q. So you put on your hair net and beard net<br/> 6 before you go through the doors of the production<br/> 7 area; is that correct?<br/> 8 A. Yes.<br/> 9 Q. And then you said that you wash or rinse<br/> 10 something down; is that correct?<br/> 11 A. Your apron and gloves and sleeves.<br/> 12 Q. And do you also put on your plastic arm<br/> 13 guard at that time?<br/> 14 A. Yes.<br/> 15 Q. And do you put that on after you rinse off<br/> 16 your gloves and apron and sleeves?<br/> 17 A. Yes.<br/> 18 Q. And how long does it take you to put on and<br/> 19 rinse or wash those items?<br/> 20 A. About four to six minutes.<br/> 21 Q. Four to six?<br/> 22 A. Yes.<br/> 23 Q. And then you head over to your spot on the</p>  | <p style="text-align: right;">21</p> <p>1 that correct?<br/> 2 A. Yes.<br/> 3 Q. How many different positions will you work<br/> 4 in just one day?<br/> 5 A. Two.<br/> 6 Q. Okay. So you would start at one position at<br/> 7 the beginning of your shift; is that correct?<br/> 8 A. Yes.<br/> 9 Q. And then would you stay in that position<br/> 10 until you returned from a break?<br/> 11 A. No, sir.<br/> 12 Q. Okay. So you might change position before<br/> 13 break?<br/> 14 A. Not before break, at the break.<br/> 15 Q. Okay. So you would go out on break; then<br/> 16 when you came back from break, would you go to the<br/> 17 same position on the line or a different position<br/> 18 on the line?<br/> 19 A. Different.<br/> 20 Q. And then would you stay in that position<br/> 21 until you had your next break?<br/> 22 A. Yes.<br/> 23 Q. And then when you returned from that break,</p>   |

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| <p style="text-align: right;">22</p> <p>1 would you go to the position that was the same as</p> <p>2 one of the first two that you worked, or a</p> <p>3 different position?</p> <p>4 A. The same.</p> <p>5 Q. So you might go back to the first position</p> <p>6 that you worked?</p> <p>7 A. Yes.</p> <p>8 Q. And is that what you would normally do on</p> <p>9 any given day?</p> <p>10 A. Yes.</p> <p>11 Q. So you'll end at the same position where you</p> <p>12 started?</p> <p>13 A. Yes.</p> <p>14 Q. Am I correct that you have two breaks during</p> <p>15 the course of a shift?</p> <p>16 A. Yes.</p> <p>17 Q. And how long are those breaks?</p> <p>18 A. 30 minutes.</p> <p>19 Q. Do they normally occur at some sort of</p> <p>20 scheduled time? Do they occur at the same time</p> <p>21 every day?</p> <p>22 A. Yes.</p> <p>23 Q. And what time are your breaks?</p>   | <p style="text-align: right;">24</p> <p>1 there against the wall, take all my stuff off and</p> <p>2 hang it up.</p> <p>3 Q. Okay. So you are not responsible for</p> <p>4 cleaning or washing off your chain glove or your</p> <p>5 knife; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Someone will come around and collect those</p> <p>8 on the line?</p> <p>9 A. Yes.</p> <p>10 Q. So then you said that you'll walk over to</p> <p>11 wash or rinse off your gloves and your sleeves and</p> <p>12 your apron; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And then after that, you will go to the spot</p> <p>15 where there are those racks, and then you will</p> <p>16 take those items off?</p> <p>17 A. Yes.</p> <p>18 Q. What items are you allowed to wear outside</p> <p>19 of the production floor?</p> <p>20 A. Just the boots and the hair net and the</p> <p>21 beard net, if you ain't going outside. If you're</p> <p>22 going outside, you have to take everything off</p> <p>23 except the boots.</p> |
| <p style="text-align: right;">23</p> <p>1 A. One's 10:15 and the other one is 1:15.</p> <p>2 Q. And how do you know when it's time to go out</p> <p>3 on break?</p> <p>4 A. Look down the line.</p> <p>5 Q. So the birds stop coming down the line</p> <p>6 before your break?</p> <p>7 A. They quit loading the line.</p> <p>8 Q. Okay. So they'll stop putting chickens on</p> <p>9 the cones that run down the debone line?</p> <p>10 A. Yes.</p> <p>11 Q. And then once that last bird reaches your</p> <p>12 place on the line and you've done your last cut or</p> <p>13 your last pull, or whatever you may be doing, you</p> <p>14 can leave for break?</p> <p>15 A. Yes.</p> <p>16 Q. And can you describe for me what you do once</p> <p>17 you leave your position on the line, before you</p> <p>18 exit the production doors?</p> <p>19 A. I take the chain glove off. And I have to</p> <p>20 give the knife to the line leader, put it in the</p> <p>21 little bucket. Then we go out to the wash area.</p> <p>22 And we've got to wash the apron and the sleeves</p> <p>23 and gloves. Then we walk from there, walk over</p> | <p style="text-align: right;">25</p> <p>1 Q. So before you leave the production floor,</p> <p>2 you'll take off your rubber gloves and your cloth</p> <p>3 gloves; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you'll take off your apron and your</p> <p>6 smock; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. And you'll take off your plastic sleeves?</p> <p>9 A. Yes.</p> <p>10 Q. Is there anything else I'm missing?</p> <p>11 A. Arm guard.</p> <p>12 Q. And you'll take off your hard plastic arm</p> <p>13 guard as well?</p> <p>14 A. Yes.</p> <p>15 Q. And you'll put them all on some spot on the</p> <p>16 rack?</p> <p>17 A. Yes.</p> <p>18 Q. And then you'll head out for break?</p> <p>19 A. Yes.</p> <p>20 Q. Approximately how long does it take you to</p> <p>21 do all of that?</p> <p>22 A. From four to six minutes.</p> <p>23 Q. And then do you normally go into the break</p>   |

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| <p style="text-align: right;">26</p> <p>1 room, or do you normally go outside?</p> <p>2 A. In the break room.</p> <p>3 Q. And what do you do when you're in the break</p> <p>4 room?</p> <p>5 A. Wait in line to get something at the</p> <p>6 machine.</p> <p>7 Q. So you'll get something to eat, something to</p> <p>8 drink?</p> <p>9 A. Yes.</p> <p>10 Q. Do you socialize, talk with any of your</p> <p>11 coworkers?</p> <p>12 A. Outside, after I be done got whatever I'm</p> <p>13 going to get to eat.</p> <p>14 Q. Okay. How do you know when it's time to</p> <p>15 return from break?</p> <p>16 A. (No response.)</p> <p>17 Q. How do you know when it's time to leave</p> <p>18 break and go back out to the line?</p> <p>19 A. We've got a clock on the wall.</p> <p>20 Q. Okay. Now, what is your understanding as to</p> <p>21 when you have to be back on the line? What time</p> <p>22 do you have to be back on the line?</p> <p>23 A. 10:45.</p>   | <p style="text-align: right;">28</p> <p>1 A. Yes.</p> <p>2 Q. When do you get your chain glove back?</p> <p>3 A. When you go in on the line, there's a table,</p> <p>4 and they have them all spread out on the table</p> <p>5 there.</p> <p>6 Q. So you can grab your chain glove there?</p> <p>7 A. Uh-huh.</p> <p>8 Q. How long does it take you, approximately, to</p> <p>9 do all the activities you told me? Again, walking</p> <p>10 through the foam, putting on your items, rinsing</p> <p>11 them off, and getting your chain glove, and</p> <p>12 walking back to the line?</p> <p>13 A. About four to six minutes, if there ain't a</p> <p>14 lot of folks that went in before you. Because</p> <p>15 you've got to wait for them to get out of the way,</p> <p>16 and then you've got to get up there and get your</p> <p>17 stuff.</p> <p>18 Q. So that's why you're telling me it could</p> <p>19 take four to six minutes? It could be at the</p> <p>20 short end if there's not a lot of people, and it</p> <p>21 could be at the high end if there are a lot of</p> <p>22 people; is that what you're saying?</p> <p>23 A. Yes.</p> |
| <p style="text-align: right;">27</p> <p>1 Q. And that's for your first break?</p> <p>2 A. Yes.</p> <p>3 Q. Can you describe for me what you will do</p> <p>4 when you're heading back from break, from the time</p> <p>5 you enter through the production doors?</p> <p>6 A. You have to walk back through the double</p> <p>7 doors, walk through that stuff again; then you've</p> <p>8 got to go over there where you hung your stuff up</p> <p>9 at, put all that back on; then you go back to the</p> <p>10 sink and wash back off.</p> <p>11 Q. And then you go to your position on the</p> <p>12 line?</p> <p>13 A. Yes.</p> <p>14 Q. And get your chain glove?</p> <p>15 A. It all depends. If I'm on the line, I ain't</p> <p>16 got to have the chain glove; but when we're</p> <p>17 cutting meat, I have to use the chain glove.</p> <p>18 Q. So you'll get your chain glove? I'm just</p> <p>19 trying to figure out when you'll get your chain</p> <p>20 glove again.</p> <p>21 You told me that you will take it off, put</p> <p>22 it into a bucket, and the line leader will take it</p> <p>23 up; is that correct?</p> | <p style="text-align: right;">29</p> <p>1 Q. Is the procedure the same for your second</p> <p>2 break?</p> <p>3 A. Yes.</p> <p>4 Q. You'll do the same thing before and after</p> <p>5 your first break and before and after your second</p> <p>6 break?</p> <p>7 A. Yes.</p> <p>8 Q. There's no real difference between the two?</p> <p>9 A. Yes.</p> <p>10 Q. Is that what you're saying?</p> <p>11 A. Yes.</p> <p>12 Q. And can you describe for me how you know</p> <p>13 it's the end of your shift?</p> <p>14 A. When they stop loading the line.</p> <p>15 Q. Okay. So it would be similar to what</p> <p>16 happens before your breaks? The birds will stop</p> <p>17 coming down the line at a certain time?</p> <p>18 A. Yes.</p> <p>19 Q. And then once that last bird passes your</p> <p>20 spot on the line, you're free to go?</p> <p>21 A. Yes.</p> <p>22 Q. And you'll take off your chain glove, and</p> <p>23 leave your knife, again, with the line leader; is</p>   |

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| <p style="text-align: right;">30</p> <p>1 that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Can you describe for me what you do at the</p> <p>4 end of your shift, from that point when you're</p> <p>5 leaving the line, before you pass through the</p> <p>6 production doors?</p> <p>7 A. You've got to go back, wash your stuff off.</p> <p>8 Then sometimes you have to wait a little longer,</p> <p>9 because second shift be coming in and they be up</p> <p>10 there at the sink washing off too.</p> <p>11 Q. Okay. And then you'll take off your items</p> <p>12 again?</p> <p>13 A. Yes.</p> <p>14 Q. But you'll still keep your boots on; is that</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And you'll still have your hair net and</p> <p>18 beard net on while you're out there on the</p> <p>19 production floor; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And approximately how long do you estimate</p> <p>22 it takes you to do those activities at the end of</p> <p>23 your shift?</p> | <p style="text-align: right;">32</p> <p>1 A. Yes.</p> <p>2 Q. So you'll take home with you your gloves,</p> <p>3 your arm guard, your apron, your hair net, beard</p> <p>4 net, and earplugs?</p> <p>5 A. Yes. Except the chain glove.</p> <p>6 Q. Right. I think you told me you leave that</p> <p>7 on the line with the line leader; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And has this procedure been the same for the</p> <p>10 entire time you've been employed at the plant?</p> <p>11 A. Yes.</p> <p>12 Q. Mr. Kennedy, do you have an understanding as</p> <p>13 to how the hours worked for which you are paid,</p> <p>14 how that is calculated?</p> <p>15 A. No, sir.</p> <p>16 Q. You get paid on a weekly basis; is that</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. And it's been that way the entire time</p> <p>20 you've been working at the plant?</p> <p>21 A. Yes.</p> <p>22 Q. And when you get your paycheck, do you look</p> <p>23 at it to see if it reflects the hours that you</p>                                |
| <p style="text-align: right;">31</p> <p>1 A. Between four and six minutes.</p> <p>2 Q. And then what do you do after you leave the</p> <p>3 production floor?</p> <p>4 A. We be done took everything off. Then the</p> <p>5 white thing, you take that off. You've got to</p> <p>6 throw that -- they've got some big old baskets you</p> <p>7 put the white thing in. Then you go back in the</p> <p>8 break room and get in a line and get ready to</p> <p>9 clock out.</p> <p>10 Q. So there's a bin where you can throw your</p> <p>11 smock?</p> <p>12 A. Uh-huh.</p> <p>13 Q. Is that yes?</p> <p>14 A. Yes.</p> <p>15 Q. Thank you. And the bin, is that right next</p> <p>16 to the doors to the break room?</p> <p>17 A. Yes.</p> <p>18 Q. And then the clock where you clock out is</p> <p>19 inside the break room?</p> <p>20 A. Yes.</p> <p>21 Q. And at the end of your shift, do you</p> <p>22 normally take all of your other items, other than</p> <p>23 the smock, home with you?</p>             | <p style="text-align: right;">33</p> <p>1 worked?</p> <p>2 A. Yes.</p> <p>3 Q. Has there ever been an occasion where you</p> <p>4 have complained to your supervisor or someone in</p> <p>5 payroll or somebody in management that your</p> <p>6 paycheck didn't properly reflect the hours for</p> <p>7 which you had worked?</p> <p>8 A. One time, when I had worked overtime. But</p> <p>9 they put it on the next check.</p> <p>10 Q. Okay. So there was a time when you worked</p> <p>11 overtime that it hadn't been paid into your check,</p> <p>12 and you complained about it?</p> <p>13 A. Yes.</p> <p>14 Q. And then they agreed that there was a</p> <p>15 mistake and they put that in your next paycheck?</p> <p>16 A. Yes.</p> <p>17 Q. And that was just one time?</p> <p>18 A. Yes.</p> <p>19 Q. Have there been any other occasions when</p> <p>20 you've complained to your supervisor or somebody</p> <p>21 in payroll or somebody in management about the</p> <p>22 amount of time for which you were paid?</p> <p>23 A. No, sir.</p> |

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| <p style="text-align: right;">34</p> <p>1 Q. I think those are all the questions I have<br/>2 for you, Mr. Kennedy.<br/>3 MR. KISER: I have one question.<br/>4 BY MR. KISER:<br/>5 Q. Have you ever been required to do any<br/>6 stretching before your – after you've got all<br/>7 your stuff on and you're at the line, have you<br/>8 ever been required to do calisthenics, stretching,<br/>9 while you were out there?<br/>10 A. Yes, we had to do exercise.<br/>11 Q. Is this before the chickens start coming<br/>12 down the line?<br/>13 A. Yes.<br/>14 Q. Who requires you to do that?<br/>15 A. The line leader.<br/>16 Q. And she or he leads you in that?<br/>17 A. Yes.<br/>18 Q. That's all I have.<br/>19 BY MR. GOULD:<br/>20 Q. What time do you normally do those exercises<br/>21 or stretches?<br/>22 A. After we put everything on.<br/>23 Q. Okay. Do you know whether it is at 7:30 or</p> | <p style="text-align: right;">36</p> <p>1 CERTIFICATE<br/>2<br/>3 STATE OF ALABAMA<br/>4 BARBOUR COUNTY<br/>5<br/>6 I hereby certify that the above and<br/>7 foregoing deposition was taken down by me in<br/>8 stenotype and the questions and answers thereto<br/>9 were transcribed by means of computer-aided<br/>10 transcription, and that the foregoing represents<br/>11 a true and correct transcript of the testimony<br/>12 given by said witness upon said hearing.<br/>13 I further certify that I am neither of<br/>14 counsel, nor kin to the parties to the action,<br/>15 nor am I in anywise interested in the result of<br/>16 said cause.<br/>17<br/>18<br/>19 CYNTHIA M. NOAKES, Commissioner<br/>20 Certified Court Reporter,<br/>21 ACCR #327 - Expires 09/30/2008<br/>22<br/>23 Commission Expires 07/08/2009</p> |
| <p style="text-align: right;">35</p> <p>1 7:35 or 7:25? Do you have an idea as to when it<br/>2 is when you start those stretches?<br/>3 A. It would be after 7:30.<br/>4 Q. Okay. That's all I have. Thank you.<br/>5 BY MR. KISER:<br/>6 Q. Is it before the chickens come down the<br/>7 line, before y'all start working for the day?<br/>8 A. Sometimes they already be.<br/>9 Q. So the chickens are coming, and y'all are<br/>10 having to do stretches?<br/>11 A. Sometimes it would be some in the bin. Then<br/>12 they'll tell us to, you know, do all that right<br/>13 there and do your exercise. Then you have to do<br/>14 that, and we start loading the line.<br/>15 Q. Thank you.<br/>16 MR. GOULD: That's all.<br/>17<br/>18 (The deposition was concluded.)<br/>19<br/>20<br/>21<br/>22<br/>23</p>   |  |

**TAB 29**



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,  
Plaintiff(s),

vs.

EQUITY GROUP EUFAULA  
DIVISION, LLC,  
Defendant(s).

DEPOSITION OF  
STEVEN KINCEY

JOB NO. 1101-58403

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008



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|---|--|
| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 22nd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of STEVEN KINCEY may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 22nd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6, 45</p> <p>5 Mr. Underwood 45</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 Carl E. Underwood, III, Esq.</p> <p>5 THE COCHRAN FIRM</p> <p>6 163 West Main Street</p> <p>7 Dothan, Alabama 36302</p> <p>8</p> <p>9 P. Mark Petro, Esq.</p> <p>10 SCHREIBER &amp; PETRO</p> <p>11 Two Metroplex Drive</p> <p>12 Suite 250</p> <p>13 Birmingham, Alabama 35209</p> <p>14</p> <p>15 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>16 Gary D. Fry, Esq.</p> <p>17 Pelino &amp; Lentz</p> <p>18 One Liberty Place</p> <p>19 Thirty-Second Floor</p> <p>20 1650 Market Street</p> <p>21 Philadelphia, Pennsylvania 19103</p> <p>22</p> <p>23 *****</p> |

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| <p style="text-align: right;">6</p> <p>1</p> <p>2 I, Victoria M. Castillo, a Court</p> <p>3 Reporter of Montgomery, Alabama, acting as</p> <p>4 Commissioner, certify that on this date, as</p> <p>5 provided by the Alabama Rules of Civil Procedure</p> <p>6 and the foregoing stipulation of counsel, there</p> <p>7 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;</p> <p>8 SMITH, 125 South Orange Avenue, Eufaula, Alabama</p> <p>9 36027, commencing at 10:04 a.m., STEVEN KINCEY, in</p> <p>10 the above cause, for oral examination, whereupon</p> <p>11 the following proceedings were had:</p> <p>12</p> <p>13 STEVEN KINCEY,</p> <p>14 being first duly sworn, was examined and</p> <p>15 testified as follows:</p> <p>16</p> <p>17 COURT REPORTER: Usual</p> <p>18 stipulations?</p> <p>19 MR. FRY: Yes.</p> <p>20</p> <p>21 EXAMINATION BY MR. FRY:</p> <p>22 Q. My name is Gary Fry, and I'm an</p> <p>23 attorney. I represent Equity Group Eufaula, the</p>  | <p style="text-align: right;">8</p> <p>1 answering, so we don't talk over one another.</p> <p>2 Okay?</p> <p>3 A. Okay.</p> <p>4 Q. Where do you live?</p> <p>5 A. 209 East Alabama Street, Abbeville.</p> <p>6 Q. What state?</p> <p>7 A. Alabama -- 36310.</p> <p>8 Q. Thank you. What's your date of</p> <p>9 birth?</p> <p>10 A. 8/3/73.</p> <p>11 Q. Are you currently employed?</p> <p>12 A. Yes, I am.</p> <p>13 Q. By whom?</p> <p>14 A. Henry County Health and Rehab.</p> <p>15 Q. I assume at one point in time you</p> <p>16 were employed by the Equity plant in Baker Hill?</p> <p>17 A. Yes, I was.</p> <p>18 Q. And for what period of time?</p> <p>19 A. The year -- I'm not to be exact --</p> <p>20 but it was like in '05, '07.</p> <p>21 Q. From approximately 2005 to '07?</p> <p>22 A. No, I'm saying in between -- I don't</p> <p>23 know exactly the dates, you know, the year.</p> |
| <p style="text-align: right;">7</p> <p>1 folks that run the plant out in Baker Hill. We've</p> <p>2 asked you here today to put some questions to you</p> <p>3 concerning a lawsuit that you and some other folks</p> <p>4 have brought against the company. Have you ever</p> <p>5 been deposed before?</p> <p>6 A. This.</p> <p>7 Q. Yes, have you ever done this before?</p> <p>8 A. No.</p> <p>9 Q. This is called a deposition. Let me</p> <p>10 just briefly explain to you. I'll be asking the</p> <p>11 questions, and you will be supplying the answers,</p> <p>12 and our court reporter, Victoria, will be taking</p> <p>13 down what we both say. If you don't understand one</p> <p>14 of my questions, it's important that you let me</p> <p>15 know so that I can rephrase it -- hopefully in a</p> <p>16 manner in which you will understand it. If you</p> <p>17 don't hear anything I say, let me know that as well</p> <p>18 and I will repeat it. My only request is that you</p> <p>19 keep your answers to my questions verbal so</p> <p>20 Victoria can take down your answers -- she can't do</p> <p>21 the shake or the nod of the head -- and try not to</p> <p>22 anticipate my questions and talk over me, and I</p> <p>23 will try not to interrupt you while you're</p> | <p style="text-align: right;">9</p> <p>1 Q. But you worked sometime out there</p> <p>2 between those two years, is that what you're</p> <p>3 saying?</p> <p>4 A. Uh-huh.</p> <p>5 Q. And for what length of time did you</p> <p>6 work there?</p> <p>7 A. About five months.</p> <p>8 Q. What did you do?</p> <p>9 A. Well, I started out in debone on the</p> <p>10 line.</p> <p>11 Q. How long did you perform that job?</p> <p>12 A. I stayed on there for about a month.</p> <p>13 Q. Then what did you do?</p> <p>14 A. Squeegee.</p> <p>15 Q. Pardon?</p> <p>16 A. Squeegee -- I cleaned the floors.</p> <p>17 Q. How long did you do that?</p> <p>18 A. For the rest of the period of time I</p> <p>19 was there.</p> <p>20 Q. Why did you leave that job?</p> <p>21 A. I had missed too many days.</p> <p>22 Q. So you were terminated for violation</p> <p>23 of the point policy?</p>              |

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| <p style="text-align: right;">10</p> <p>1 A. Right.</p> <p>2 Q. What shift did you work?</p> <p>3 A. Day shift.</p> <p>4 Q. What were your hours?</p> <p>5 A. We worked from three to whatever time</p> <p>6 we got off.</p> <p>7 Q. Did those hours apply to you whether</p> <p>8 you were working on the debone line or cleaning the</p> <p>9 floors?</p> <p>10 A. Well, I had to stay longer if I was</p> <p>11 cleaning the floors.</p> <p>12 Q. Your floor-cleaning job, was that</p> <p>13 during the time that production was ongoing in the</p> <p>14 debone department?</p> <p>15 A. Before, during, and after.</p> <p>16 Q. Did you perform that job in the</p> <p>17 debone department floor?</p> <p>18 A. Right.</p> <p>19 Q. Did you work any other shifts while</p> <p>20 you were there?</p> <p>21 A. Huh-uh.</p> <p>22 Q. Tell me what you did for the one</p> <p>23 month that you worked on the debone line.</p> | <p style="text-align: right;">12</p> <p>1 Q. Same guy?</p> <p>2 A. Yes.</p> <p>3 Q. What was your rate of pay?</p> <p>4 A. That I don't remember. I think it</p> <p>5 was no more than \$7.50.</p> <p>6 Q. How many hours a day did you work</p> <p>7 generally?</p> <p>8 A. Well, that's hard to say because we</p> <p>9 supposed to get off at a certain time, but if we</p> <p>10 had to work over to like one, two, that's what we</p> <p>11 had to do. So 40-plus hours every week.</p> <p>12 Q. Monday through Friday?</p> <p>13 A. Uh-huh -- sometimes on Saturday if</p> <p>14 needed.</p> <p>15 Q. When you worked overtime, did you get</p> <p>16 paid time-and-a-half?</p> <p>17 A. Yes.</p> <p>18 Q. Did you ever have any problems with</p> <p>19 the overtime computations?</p> <p>20 A. A couple of times I did.</p> <p>21 Q. And what did you do when you had</p> <p>22 those problems?</p> <p>23 A. I went to the office.</p> |
| <p style="text-align: right;">11</p> <p>1 A. I started out cutting shoulders, and</p> <p>2 then you rotate to like the wings and pulling the</p> <p>3 tenders and the skin.</p> <p>4 Q. So you rotated on the line?</p> <p>5 A. Right.</p> <p>6 Q. Did you rotate on the line every day?</p> <p>7 A. Yes.</p> <p>8 Q. How many times per day would you</p> <p>9 rotate?</p> <p>10 A. Three to four.</p> <p>11 Q. What caused you to move from the</p> <p>12 debone line to the floor?</p> <p>13 A. My hands had started hurting.</p> <p>14 Q. From the cold?</p> <p>15 A. From the cold and handling the</p> <p>16 knives.</p> <p>17 Q. Who was your supervisor in the debone</p> <p>18 line?</p> <p>19 A. What was his name -- I can't think of</p> <p>20 his name.</p> <p>21 Q. Who supervised you on the</p> <p>22 floor-cleaning job?</p> <p>23 A. The same guy, I think.</p>  | <p style="text-align: right;">13</p> <p>1 Q. And what happened?</p> <p>2 A. They corrected them.</p> <p>3 Q. During the period that you were</p> <p>4 working at the Equity plant were you a member of</p> <p>5 the Union?</p> <p>6 A. No.</p> <p>7 Q. You understand that you have a claim</p> <p>8 in this lawsuit?</p> <p>9 A. Right.</p> <p>10 Q. And what's your understanding of the</p> <p>11 nature of your claim?</p> <p>12 A. Hours worked and not paid for -- not</p> <p>13 getting paid for the hours worked.</p> <p>14 Q. What work do you feel that you</p> <p>15 performed for which you weren't paid?</p> <p>16 A. Honestly?</p> <p>17 Q. Yes, you have to be honest.</p> <p>18 A. To me, personally I believe we was</p> <p>19 underpaid.</p> <p>20 Q. Underpaid for everything?</p> <p>21 A. Right.</p> <p>22 MR. UNDERWOOD: He's particularly</p> <p>23 asking you about the lawsuit though. That's not</p>                 |

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| <p style="text-align: right;">14</p> <p>1 what the lawsuit is about.</p> <p>2 Q. (Mr. Fry) I want to know what is</p> <p>3 your understanding of what the lawsuit is about.</p> <p>4 A. I was just telling you the</p> <p>5 understanding of the pay, period.</p> <p>6 Q. Let's get to the lawsuit.</p> <p>7 A. Okay.</p> <p>8 Q. What do you think your claim for is</p> <p>9 here?</p> <p>10 A. Hours worked and not getting paid.</p> <p>11 Q. What work did you perform for which</p> <p>12 you weren't paid, if any?</p> <p>13 A. The time it took for me to take off</p> <p>14 my equipment and stuff, and I didn't get paid for</p> <p>15 that.</p> <p>16 Q. Anything else?</p> <p>17 A. That's it.</p> <p>18 Q. How did you come across that</p> <p>19 understanding?</p> <p>20 A. Well, there was discussion going on</p> <p>21 when I was working there of people complaining to</p> <p>22 the office about that.</p> <p>23 Q. How do you know that?</p> | <p style="text-align: right;">16</p> <p>1 your appearance here today for your deposition</p> <p>2 besides your lawyers?</p> <p>3 A. No.</p> <p>4 Q. Did you review any papers in</p> <p>5 preparation for coming here?</p> <p>6 A. No.</p> <p>7 Q. Let's get to the clothing you just</p> <p>8 referred to. Tell me what items of clothing you</p> <p>9 wore --</p> <p>10 A. You mean the PPEs?</p> <p>11 Q. PPEs.</p> <p>12 A. Ear plugs.</p> <p>13 Q. Let's start -- like let me finish my</p> <p>14 question. I want you to identify for me the</p> <p>15 clothing -- or as you put it, the PPE -- that you</p> <p>16 wore, and let's start with your floor-cleaning</p> <p>17 job. What were you putting on every day to perform</p> <p>18 that job?</p> <p>19 A. Boots, aprons, smocks, cotton liners,</p> <p>20 rubber gloves, and protective eye wear, and ear</p> <p>21 plugs.</p> <p>22 Q. Boots, apron, a smock, glove liner,</p> <p>23 plastic gloves, and eye wear?</p>  |
| <p style="text-align: right;">15</p> <p>1 A. Because I went up there and I was one</p> <p>2 of the ones that complained.</p> <p>3 Q. You complained?</p> <p>4 A. Yes.</p> <p>5 Q. You complained to the office about</p> <p>6 not being paid for putting on and taking off your</p> <p>7 clothes?</p> <p>8 A. Right.</p> <p>9 Q. And who did you complain --</p> <p>10 A. PPEs.</p> <p>11 Q. Who did you complain to?</p> <p>12 A. We complained to the Resource people.</p> <p>13 Q. Do you recall when you did that?</p> <p>14 A. No, because, you know, we did it more</p> <p>15 than one time.</p> <p>16 Q. Were those oral or written</p> <p>17 complaints?</p> <p>18 A. Oral.</p> <p>19 Q. Do you know whether anybody ever</p> <p>20 complained to the Union?</p> <p>21 A. Not that -- I don't know. I wasn't</p> <p>22 part of the Union, so I don't know.</p> <p>23 Q. Did you speak with anybody concerning</p>  | <p style="text-align: right;">17</p> <p>1 A. Yes -- and sleeves.</p> <p>2 Q. Anything else?</p> <p>3 A. That's it for the squeegee job.</p> <p>4 Q. What about a hair net?</p> <p>5 A. Yes, hair net too. I'm sorry.</p> <p>6 Q. Which of these items did you wear</p> <p>7 when you worked on the debone line?</p> <p>8 A. All those plus an arm guard and a</p> <p>9 chain glove.</p> <p>10 Q. Which of these items were you</p> <p>11 required to wear, that you identified for me that</p> <p>12 you wore when you were cleaning the floor?</p> <p>13 A. All, except for the arm guard and the</p> <p>14 cutting glove.</p> <p>15 Q. Was it your understanding that you</p> <p>16 were required to wear, for example, the plastic</p> <p>17 sleeves?</p> <p>18 A. Yes.</p> <p>19 Q. What were the plastic sleeves for?</p> <p>20 A. For not getting wet, and stuff like</p> <p>21 that, and protecting your arms.</p> <p>22 Q. From what you were able to observe in</p> <p>23 the debone room, did everybody that worked in there</p> |

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| <p style="text-align: right;">18</p> <p>1 wear these exact same items?</p> <p>2 A. Yes.</p> <p>3 Q. You didn't see any variation at all?</p> <p>4 A. No -- when you say "variation", what</p> <p>5 do you mean?</p> <p>6 Q. Did you see some people that did not</p> <p>7 wear the sleeves?</p> <p>8 A. Well, some of them didn't.</p> <p>9 Q. Some of them?</p> <p>10 A. Didn't.</p> <p>11 Q. Did not?</p> <p>12 A. Yes.</p> <p>13 Q. Did anyone ever tell you that the</p> <p>14 sleeves were optional?</p> <p>15 A. No.</p> <p>16 Q. Which of these items that you have</p> <p>17 identified for me were given to you by the plant --</p> <p>18 A. You mean given that you didn't have</p> <p>19 to pay for or --</p> <p>20 Q. Issued to you?</p> <p>21 A. That you didn't have to pay for or</p> <p>22 you had to pay for?</p> <p>23 Q. Yes.</p>  | <p style="text-align: right;">20</p> <p>1 Q. Did you have a beard when you were</p> <p>2 working there?</p> <p>3 A. Yes, I did.</p> <p>4 Q. Which of these items could you wear</p> <p>5 from home?</p> <p>6 A. Nothing but the boots.</p> <p>7 Q. Just the boots?</p> <p>8 A. Uh-huh.</p> <p>9 Q. What about the ear plugs?</p> <p>10 A. No. And your glasses, you could wear</p> <p>11 your glasses if you wanted to.</p> <p>12 Q. When you were not working there at</p> <p>13 the plant, what did you do with these items?</p> <p>14 A. You -- if you --</p> <p>15 Q. The items that you didn't turn in or</p> <p>16 discard daily?</p> <p>17 A. You had to keep them in your locker</p> <p>18 or take them home with you.</p> <p>19 Q. What did you do?</p> <p>20 A. I took them home.</p> <p>21 Q. When you were working as a floor</p> <p>22 cleaner at the plant, where did you put on each of</p> <p>23 these items that you identified for me?</p>           |
| <p style="text-align: right;">19</p> <p>1 A. All of them were given to you.</p> <p>2 Q. What did you have to pay for?</p> <p>3 A. You had to pay for your boots; and if</p> <p>4 you lost your smock, you had to pay for your smock;</p> <p>5 and your ear plugs; your glasses, if you lost them;</p> <p>6 and your arm guard; and your cutting glove if you</p> <p>7 didn't turn it in.</p> <p>8 Q. When you worked there, were you</p> <p>9 permitted to wear your boots from home?</p> <p>10 A. At first I wasn't, and then later on</p> <p>11 you could.</p> <p>12 Q. Did you have to wear the company</p> <p>13 boots, or could you wear boots that you purchased?</p> <p>14 A. Company boots.</p> <p>15 Q. You had to wear the company boots?</p> <p>16 A. Right.</p> <p>17 Q. Which of these items that you have</p> <p>18 identified for me did you pick up on a daily basis?</p> <p>19 A. The smocks, and ear plugs if you</p> <p>20 didn't have them.</p> <p>21 Q. What about the hair net?</p> <p>22 A. Yes. I'm sorry -- and if you had a</p> <p>23 beard, you had to wear a beard net.</p> | <p style="text-align: right;">21</p> <p>1 A. You had to put them on at work --</p> <p>2 this thing that you hang them on when you go to</p> <p>3 break, you had to put them on right there. It's</p> <p>4 not a coat rack, but it's a rack that you hang</p> <p>5 everything up on.</p> <p>6 Q. Where is this rack located?</p> <p>7 A. Right before you go in or come out</p> <p>8 the double doors.</p> <p>9 Q. And the area is located on the</p> <p>10 production floor?</p> <p>11 A. Right.</p> <p>12 Q. That's where you put on your apron,</p> <p>13 your smock, your gloves and the liner, and the</p> <p>14 sleeves?</p> <p>15 A. Right.</p> <p>16 Q. When did you put this stuff on?</p> <p>17 A. You mean before -- when you first got</p> <p>18 to work?</p> <p>19 Q. Yes. When you first got to work,</p> <p>20 when did you put it on?</p> <p>21 A. You put it on before you go to the</p> <p>22 line.</p> <p>23 Q. When you were working as a floor</p> |

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| <p style="text-align: right;">22</p> <p>1 cleaner, you didn't go to a line, did you?</p> <p>2 A. Well, I'm saying you working right</p> <p>3 there on the line. You just on the floor.</p> <p>4 Q. Okay. What time did your shift</p> <p>5 start?</p> <p>6 A. Three.</p> <p>7 Q. Pardon?</p> <p>8 A. Three.</p> <p>9 Q. 3 p.m.</p> <p>10 A. Uh-huh.</p> <p>11 Q. You worked second shift?</p> <p>12 A. Uh-huh.</p> <p>13 Q. It was your understanding you were</p> <p>14 required to be on the production floor at 3 p.m.,</p> <p>15 ready to go?</p> <p>16 A. Right.</p> <p>17 Q. How soon before 3 p.m. would you go</p> <p>18 into the debone floor and put on this stuff?</p> <p>19 A. While I was working as a squeegee?</p> <p>20 Q. Yes, sir.</p> <p>21 A. Sometimes I would go in like ten</p> <p>22 minutes before to make sure I had everything.</p> <p>23 Because when I was coming in, the first shift was</p> | <p style="text-align: right;">24</p> <p>1 floor cleaner, did you have to go retrieve any</p> <p>2 other implements?</p> <p>3 A. Yes.</p> <p>4 Q. What did you have to get?</p> <p>5 A. I had to go get the squeegee.</p> <p>6 Q. And where did you get that?</p> <p>7 A. Upstairs in the box room.</p> <p>8 Q. When did you have to get that?</p> <p>9 A. I had to get that before I started</p> <p>10 work.</p> <p>11 Q. What time was your shift scheduled to</p> <p>12 end?</p> <p>13 A. It was scheduled to end from three to</p> <p>14 eleven.</p> <p>15 Q. Eleven?</p> <p>16 A. Uh-huh.</p> <p>17 Q. How many breaks did you get during</p> <p>18 the day when you worked as a floor cleaner?</p> <p>19 A. Breaks -- two.</p> <p>20 Q. Did you get two breaks as well when</p> <p>21 you were on the debone line?</p> <p>22 A. Right.</p> <p>23 Q. Did you go with the debone line folks</p>  |
| <p style="text-align: right;">23</p> <p>1 working, so I had to go in and make sure everything</p> <p>2 was ready for when my line came in.</p> <p>3 Q. When you were working on the debone</p> <p>4 line, you used a knife, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Did you use scissors as well?</p> <p>7 A. Yes.</p> <p>8 Q. How did you get those items?</p> <p>9 A. They would be on the line when you</p> <p>10 got there.</p> <p>11 Q. You didn't have any responsibility</p> <p>12 for going some place to pick them up?</p> <p>13 A. No.</p> <p>14 Q. Or to take them off when you're done</p> <p>15 with them?</p> <p>16 A. No.</p> <p>17 Q. And you didn't have any</p> <p>18 responsibility for sharpening those items, did you?</p> <p>19 A. No.</p> <p>20 Q. That was all taken care of by the</p> <p>21 line leader?</p> <p>22 A. Right.</p> <p>23 Q. In connection with your job as a</p>                 | <p style="text-align: right;">25</p> <p>1 on their break whenever they took their break when</p> <p>2 you were cleaning floor?</p> <p>3 A. No, I had to stay and wash the floor</p> <p>4 down before I left.</p> <p>5 Q. These were 30-minute breaks?</p> <p>6 A. Right.</p> <p>7 Q. Where did you take --</p> <p>8 A. The lunch breaks were 30 minutes.</p> <p>9 The other breaks were 15 minutes.</p> <p>10 Q. How many breaks did you get in a day?</p> <p>11 A. We got two 15-minute breaks and one</p> <p>12 lunch break.</p> <p>13 Q. How long was the lunch break?</p> <p>14 A. 30 minutes.</p> <p>15 Q. Were any of these breaks paid?</p> <p>16 A. Paid, you mean --</p> <p>17 Q. Were you paid for the time for any of</p> <p>18 these breaks to your understanding?</p> <p>19 A. I guess we were. We supposed to have</p> <p>20 been.</p> <p>21 Q. When you were a floor cleaner, when</p> <p>22 after your 3 p.m. start did the first break occur?</p> <p>23 A. Somewhere around about six.</p> |



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| <p style="text-align: right;">26</p> <p>1 Q. And was that a 15-minute break?</p> <p>2 A. Right.</p> <p>3 Q. When was the next break?</p> <p>4 A. Like two hours -- two hours and a</p> <p>5 half after that, which was the lunch break.</p> <p>6 Q. About 8:30?</p> <p>7 A. Right.</p> <p>8 Q. When was the second 15-minute break?</p> <p>9 A. Around 9:30.</p> <p>10 Q. And that was a 15-minute break?</p> <p>11 A. Right.</p> <p>12 Q. How did you know when it was time to</p> <p>13 go on break?</p> <p>14 A. They would say "break time".</p> <p>15 Q. Who would say?</p> <p>16 A. The line leaders.</p> <p>17 Q. Did the folks on the debone line, did</p> <p>18 they also get the two 15-minute breaks and the</p> <p>19 30-minute lunch break?</p> <p>20 A. Yes, I believe they did.</p> <p>21 Q. When the line leader said it was time</p> <p>22 to go on break, you said you couldn't go at that</p> <p>23 particular time, you had to clean up before you</p> | <p style="text-align: right;">28</p> <p>1 Q. So sometimes you arrived an hour</p> <p>2 beforehand?</p> <p>3 A. Right.</p> <p>4 Q. Why would you do that?</p> <p>5 A. Just to be there so I can sit and</p> <p>6 talk to my friends before I go to work.</p> <p>7 Q. In order to get into the plant, did</p> <p>8 you have to clear security?</p> <p>9 A. At the front gate, yes. The very</p> <p>10 first gate before you go in, yes.</p> <p>11 Q. What did you do have to do clear</p> <p>12 security?</p> <p>13 A. You had to have proof that you work</p> <p>14 there, like the parking things.</p> <p>15 Q. Did your ride have a parking sticker?</p> <p>16 A. Yes.</p> <p>17 Q. And was he able to just drive on to</p> <p>18 the property with that sticker?</p> <p>19 A. If they seen it, they didn't stop</p> <p>20 you. They just let you go.</p> <p>21 Q. Have you ever been personally</p> <p>22 searched before you entered the plant?</p> <p>23 A. Not personally, but cars -- I have</p> |
| <p style="text-align: right;">27</p> <p>1 went?</p> <p>2 A. Right.</p> <p>3 Q. And then you went on your break?</p> <p>4 A. Right.</p> <p>5 Q. When did you have to return from</p> <p>6 break?</p> <p>7 A. Within 15 minutes. From the time I</p> <p>8 left until 15 minutes, and I had to be back in</p> <p>9 there.</p> <p>10 Q. Did the same routine apply at lunch?</p> <p>11 A. Right.</p> <p>12 Q. You stayed a little bit afterwards?</p> <p>13 A. Yes.</p> <p>14 Q. And you had to come back 30 minutes</p> <p>15 after you went on break?</p> <p>16 A. Yes.</p> <p>17 Q. When you were working there, did you</p> <p>18 drive to the plant every day?</p> <p>19 A. I rode with someone.</p> <p>20 Q. About what time would you get to the</p> <p>21 plant?</p> <p>22 A. We would get there sometimes two,</p> <p>23 sometimes 2:30.</p>  | <p style="text-align: right;">29</p> <p>1 been in a car that got searched.</p> <p>2 Q. How many times?</p> <p>3 A. Altogether -- the car that I was</p> <p>4 in -- maybe three, four times.</p> <p>5 Q. But have you ever been personally</p> <p>6 searched?</p> <p>7 A. No.</p> <p>8 Q. Have any of your possessions ever</p> <p>9 been searched?</p> <p>10 A. No.</p> <p>11 Q. When you left at the end of the day,</p> <p>12 were you ever personally searched?</p> <p>13 A. No.</p> <p>14 Q. Were you stopped on the way out in</p> <p>15 the car you were riding with ever at the end of the</p> <p>16 day?</p> <p>17 A. Was the car searched, or was the</p> <p>18 people in the car searched?</p> <p>19 Q. Either.</p> <p>20 A. The car was searched.</p> <p>21 Q. How many times?</p> <p>22 A. Three to four times.</p> <p>23 Q. So it happened when they left at the</p>  |

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| <p style="text-align: right;">30</p> <p>1 end of the day?</p> <p>2 A. Right.</p> <p>3 Q. Describe for me now what you did</p> <p>4 routinely when you arrived at the plant when you</p> <p>5 were working as a floor cleaner?</p> <p>6 A. I get to work, I clock in, get ready</p> <p>7 to go to work, get inside, walk through the</p> <p>8 sanitizing for the boots, go to the thing, put my</p> <p>9 PPEs on, go to the sink, wash everything -- and if</p> <p>10 the thing wasn't there for the boots, you had to</p> <p>11 wash the boots yourself -- and then go get my</p> <p>12 squeegee and start work.</p> <p>13 Q. Let's back up. You got out of the</p> <p>14 car you arrived in, and you went into the plant.</p> <p>15 What is the first thing you did when you got into</p> <p>16 the plant?</p> <p>17 A. I went and clocked in.</p> <p>18 Q. Then what did you do?</p> <p>19 A. Put my stuff away, and then got</p> <p>20 everything that I needed and went to work.</p> <p>21 Q. When you say "you got everything you</p> <p>22 needed" what did you mean?</p> <p>23 A. My PPEs -- if you didn't have your</p> | <p style="text-align: right;">32</p> <p>1 Q. And from what you were able to</p> <p>2 observe, what took you 30 to 45 minutes to get a</p> <p>3 smock?</p> <p>4 A. The people, and plus it wasn't but</p> <p>5 one person working in supply.</p> <p>6 Q. Describe for me what you observed.</p> <p>7 How would people get smocks?</p> <p>8 A. You would stand in line, and when</p> <p>9 it's your turn, you show your badge, they write it</p> <p>10 down, you tell them what size you need, and that</p> <p>11 was it -- whatever -- if you needed more than that,</p> <p>12 you get it while you was up there.</p> <p>13 Q. How many times did you wait 30 or 45</p> <p>14 minutes to get a smock?</p> <p>15 A. Three to four times at least -- and</p> <p>16 that's not the whole time I was there. I'm just</p> <p>17 saying sometimes in a week.</p> <p>18 Q. What's the shortest time you ever</p> <p>19 waited there?</p> <p>20 A. About five, ten minutes.</p> <p>21 Q. After you pick up your smock and any</p> <p>22 other items you needed, what did you do?</p> <p>23 A. Go in, get dressed, and go to work.</p> |
| <p style="text-align: right;">31</p> <p>1 ear plugs or something, you had to go to the supply</p> <p>2 room and get some before you could enter the</p> <p>3 production room.</p> <p>4 Q. Didn't you have to go to supply to</p> <p>5 pick up a smock anyway?</p> <p>6 A. When they was cleaning them, yes.</p> <p>7 Q. And for the time you were there, did</p> <p>8 you ever have to clean the smock?</p> <p>9 A. Yes.</p> <p>10 Q. For how long?</p> <p>11 A. It wasn't that long because a lot of</p> <p>12 people was not cleaning them, so they just took it</p> <p>13 upon themselves to clean them.</p> <p>14 Q. When that changeover occurred then,</p> <p>15 you had to report and pick up a smock every day?</p> <p>16 A. Yes.</p> <p>17 Q. How long did that take?</p> <p>18 A. Honestly, it depended on what time</p> <p>19 you got to work. That is why sometimes that is why</p> <p>20 I used to get there early.</p> <p>21 Q. How long would it take you? What was</p> <p>22 the longest time it ever took you to get a smock?</p> <p>23 A. 30 to 45 minutes.</p>   | <p style="text-align: right;">33</p> <p>1 Q. Well, did you go to the break room?</p> <p>2 A. No.</p> <p>3 Q. You never went to the break room?</p> <p>4 A. No.</p> <p>5 Q. What about the times when you arrived</p> <p>6 at two o'clock?</p> <p>7 A. Of course I did because I was there</p> <p>8 early.</p> <p>9 Q. So when you came early, you went to</p> <p>10 the break room before you actually went into the</p> <p>11 production floor?</p> <p>12 A. Right.</p> <p>13 Q. How often would you do that?</p> <p>14 A. Sometimes three, four times a week,</p> <p>15 depending on if I got there early.</p> <p>16 Q. And what would you do in the break</p> <p>17 room?</p> <p>18 A. Sit down and eat something.</p> <p>19 Q. Talk?</p> <p>20 A. Yes, while I'm eating.</p> <p>21 Q. Were there other folks in there?</p> <p>22 A. Yes.</p> <p>23 Q. Doing the same thing?</p>  |



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| <p style="text-align: right;">34</p> <p>1 A. Yes.</p> <p>2 Q. Your shift started at 3 p.m.?</p> <p>3 A. Right.</p> <p>4 Q. What time would you leave the break</p> <p>5 room to go in for purposes of working that shift?</p> <p>6 A. Me, personally, I usually go about 15</p> <p>7 minutes.</p> <p>8 Q. Tell me what you did when you entered</p> <p>9 the production floor. Wait, let's go back. You</p> <p>10 mentioned a foot bath.</p> <p>11 A. Right.</p> <p>12 Q. You had to go through double doors,</p> <p>13 and then there was a little area there where your</p> <p>14 shoes were decontaminated or sanitized?</p> <p>15 A. Yes.</p> <p>16 Q. And did you have to stop there?</p> <p>17 A. No, you just walk through.</p> <p>18 Q. And then you went through two other</p> <p>19 double doors?</p> <p>20 A. Yes.</p> <p>21 Q. And then what did you do?</p> <p>22 A. Put on your smock, everything that</p> <p>23 you needed, and then you go to the wash area and</p>   | <p style="text-align: right;">36</p> <p>1 production floor?</p> <p>2 A. In that corner, yes.</p> <p>3 Q. But in another corner were there</p> <p>4 other sinks?</p> <p>5 A. No, not in debone.</p> <p>6 Q. Tell me now what you had to do when</p> <p>7 it was time for you to go on break and you're to</p> <p>8 clean the floor.</p> <p>9 A. When it's time for me to go to</p> <p>10 break?</p> <p>11 Q. Yes, sir.</p> <p>12 A. I have to make sure the floor is</p> <p>13 squeegee -- when I wash it down, I have to make</p> <p>14 sure there's no water, in case when they come back,</p> <p>15 they don't slip and fall, and then I go wash my</p> <p>16 stuff, take it off -- I am sorry, not my stuff --</p> <p>17 my PPEs, wash it, take it off, and then go</p> <p>18 outside.</p> <p>19 MR. FRY: You're a good student.</p> <p>20 MR. UNDERWOOD: Object to the</p> <p>21 statement by the attorney.</p> <p>22 Q. (Mr. Fry) How long would it take you</p> <p>23 to clean up the floor after the other folks went on</p> |
| <p style="text-align: right;">35</p> <p>1 wash up.</p> <p>2 Q. Once you were on the production</p> <p>3 floor, how long did it take you to put on your</p> <p>4 smock, your apron, and your sleeves?</p> <p>5 A. Just off the top of my head,</p> <p>6 probably -- just to put them on without before I</p> <p>7 cleaned them -- probably about five, six minutes.</p> <p>8 Q. And then how long did it take you to</p> <p>9 clean them?</p> <p>10 A. Depending on how many people was at</p> <p>11 the sink.</p> <p>12 Q. If you were the first person at the</p> <p>13 sink, how long would it take you?</p> <p>14 A. Two to three minutes.</p> <p>15 Q. What would you do?</p> <p>16 A. Get soap, wash your hands, soap them</p> <p>17 up, and then rinse them off.</p> <p>18 Q. How many sinks were available in the</p> <p>19 debone production floor?</p> <p>20 A. It was two sinks, but they were like</p> <p>21 maybe about half the size of this table, and then</p> <p>22 there was another one on the other side.</p> <p>23 Q. Were those the only sinks on that</p> | <p style="text-align: right;">37</p> <p>1 break?</p> <p>2 A. Sometimes probably about 15 to 20</p> <p>3 minutes.</p> <p>4 Q. And then you went on your break?</p> <p>5 A. Right, yes.</p> <p>6 Q. For 15 minutes?</p> <p>7 A. Yes.</p> <p>8 Q. After you're done cleaning up after</p> <p>9 everyone left, you went over and washed down?</p> <p>10 A. Yes.</p> <p>11 Q. And took your stuff off and went on</p> <p>12 break?</p> <p>13 A. Yes.</p> <p>14 Q. By the time you got over there, were</p> <p>15 there any other folks that you had to wait on to</p> <p>16 wash down?</p> <p>17 A. Yes.</p> <p>18 Q. There were still people there after</p> <p>19 20 minutes?</p> <p>20 A. Yes.</p> <p>21 Q. You're sure about that?</p> <p>22 A. Yes, I'm positive. Because you got</p> <p>23 the whole debone area washing up at two sinks, and</p>  |

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| <p style="text-align: right;">38</p> <p>1 there might be 50 people in there.</p> <p>2 Q. How long do you estimate it took you</p> <p>3 from the time you finished mopping up until you got</p> <p>4 to go into the break room?</p> <p>5 A. Probably seven, eight minutes.</p> <p>6 Q. How far of a walk is it between the</p> <p>7 debone break room and the production floor?</p> <p>8 A. It's not that far.</p> <p>9 Q. It's right across the hallway, right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. At the end of your break, what</p> <p>12 did you do to get back into the production floor?</p> <p>13 A. Walk through the double doors, boot</p> <p>14 sanitation, go to the rack, put your stuff on, your</p> <p>15 PPEs, go wash them, get back on the line.</p> <p>16 Q. How long would that process take you?</p> <p>17 A. Well, me because I was on the floor,</p> <p>18 it wouldn't take me as long as it takes them</p> <p>19 because I go to break after them. So when I get</p> <p>20 back on, they already at work.</p> <p>21 Q. So how long did it take you?</p> <p>22 A. About five to seven minutes.</p> <p>23 Q. Tell me what you did at the end of</p> | <p style="text-align: right;">40</p> <p>1 Q. What was your understanding as to how</p> <p>2 the company kept track of the hours that you worked</p> <p>3 when you were there?</p> <p>4 A. By the time clock.</p> <p>5 Q. The time clock that you swiped?</p> <p>6 A. Right.</p> <p>7 Q. And you swiped in in the</p> <p>8 mid-afternoon, and you swiped out at night when you</p> <p>9 left?</p> <p>10 A. Yes. Unless there was something</p> <p>11 wrong with the clock.</p> <p>12 Q. What was your understanding as to the</p> <p>13 time for which you were to be paid?</p> <p>14 A. From three until the time I got off.</p> <p>15 Q. Whenever you worked overtime, was it</p> <p>16 your understanding you were paid until you clocked</p> <p>17 out?</p> <p>18 A. Yes. Unless if you got off at eleven</p> <p>19 and you stayed there until 11:30, 11:45 and then</p> <p>20 you clocked out, no.</p> <p>21 Q. Okay. Who kept track of your</p> <p>22 overtime?</p> <p>23 A. The supervisor.</p>  |
| <p style="text-align: right;">39</p> <p>1 the day in order to leave, whenever that was.</p> <p>2 A. We go to the sink, wash PPEs, go take</p> <p>3 them off at the thing -- because you couldn't walk</p> <p>4 out in the hallway with them on -- and put the</p> <p>5 smock in the thing, and just go.</p> <p>6 Q. How long did that process take you?</p> <p>7 A. Me, that process didn't take me that</p> <p>8 long because everybody was gone by then.</p> <p>9 Q. Approximately how long did that take</p> <p>10 you?</p> <p>11 A. Three to four minutes.</p> <p>12 Q. After production ended you had to</p> <p>13 stay around and clean up, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Was it your understanding that you</p> <p>16 were paid for that time when you were working</p> <p>17 there?</p> <p>18 A. Yes.</p> <p>19 Q. That's not part of your claim here,</p> <p>20 is it -- or is it?</p> <p>21 A. No.</p> <p>22 Q. It's not?</p> <p>23 A. No.</p>  | <p style="text-align: right;">41</p> <p>1 Q. And to your knowledge, he would keep</p> <p>2 track of that manually?</p> <p>3 A. Yes, as well as the time clock.</p> <p>4 Q. I think you told me early on that you</p> <p>5 complained at least once about some overtime pay?</p> <p>6 A. No, just pay, period. I was missing</p> <p>7 a couple of hours on my check.</p> <p>8 Q. Is that the only time you ever</p> <p>9 complained to a supervisor about any pay problems?</p> <p>10 MR. UNDERWOOD: Other than his</p> <p>11 testimony that he complained about not getting paid</p> <p>12 for the PPEs getting taken off.</p> <p>13 THE DEPONENT: I am assuming that</p> <p>14 is what he is talking about.</p> <p>15 MR. FRY: Yes, I am not talking</p> <p>16 about the claims here. I know you made</p> <p>17 complaints. You testified to that.</p> <p>18 A. Other than missing time -- hours on</p> <p>19 my check, other than for the PPEs, huh-uh.</p> <p>20 Q. (Mr. Fry) When you were there, did</p> <p>21 you keep track of your time in any fashion?</p> <p>22 A. I tried to the best of my knowledge.</p> <p>23 You know, sometimes your mind --</p> |

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| <p style="text-align: right;">42</p> <p>1 Q. Just in your head -- you didn't make<br/>2 any notes?<br/>3 A. Well, I wrote it down.<br/>4 Q. You wrote it down?<br/>5 A. Uh-huh.<br/>6 Q. Did you keep notes?<br/>7 A. Right, how many hours I worked that<br/>8 day.<br/>9 Q. You didn't keep those notes, did you?<br/>10 A. No. After I got my check and it was<br/>11 right, I threw them away.<br/>12 Q. Okay. Have you made any kind of<br/>13 calculations as to the time you worked for which<br/>14 you believed you should have been paid that you<br/>15 weren't that you're claiming in this case?<br/>16 A. Say that again.<br/>17 Q. Yes. That was a dumb question,<br/>18 wasn't it? Do you have any calculations, have you<br/>19 made any calculations as to how much you think you<br/>20 are owed in this lawsuit?<br/>21 A. No, I have not.<br/>22 Q. With the exception of the point<br/>23 policy for which you were terminated, were you ever</p>  | <p style="text-align: right;">44</p> <p>1 at the end.<br/>2 Q. When you return from break, did the<br/>3 people that were first in line, did they generally<br/>4 show up first?<br/>5 A. Right.<br/>6 Q. And the people towards the end of the<br/>7 line, they came in a little later?<br/>8 A. Yes.<br/>9 Q. So you went on break in a staggered<br/>10 fashion, and you returned from the break in the<br/>11 staggered fashion?<br/>12 A. When you return from break, if you<br/>13 wanted to get on line ahead of time before the bird<br/>14 gets to you, yes, you can get on like that.<br/>15 Q. But people return at different times?<br/>16 A. Yes.<br/>17 MR. FRY: Thank you. That's all<br/>18 I have.<br/>19 MR. UNDERWOOD: Take a quick<br/>20 break.<br/>21 10:40 a.m.<br/>22 (Short break.)<br/>23 10:41 a.m.</p>  |
| <p style="text-align: right;">43</p> <p>1 written up for anything while you were there?<br/>2 A. Written up, no.<br/>3 Q. You worked on the debone line for<br/>4 approximately a month?<br/>5 A. Yes.<br/>6 Q. When it was time for you to go on<br/>7 break when you were working on the debone line, how<br/>8 did that work?<br/>9 A. They would say "break time", and<br/>10 depending on what part of the line you was on -- if<br/>11 you was at the front of the line, you couldn't<br/>12 leave off the line until the last bird goes past<br/>13 you, then so forth on down the line, then you went<br/>14 and washed your PPEs, went and took them off, and<br/>15 went to break.<br/>16 Q. So the people left the line in a<br/>17 staggered fashion?<br/>18 A. Right. First there's the people that<br/>19 loads the line, they go to break first. Then the<br/>20 shoulder cutters. When the last bird passes them,<br/>21 they go. Then the wing cutters. When the last<br/>22 bird passes that person, that person, they go.<br/>23 Then the tenders and the skin, and then the frames</p> | <p style="text-align: right;">45</p> <p>1 MR. UNDERWOOD: Quick follow-up<br/>2 here.<br/>3<br/>4 EXAMINATION BY MR. UNDERWOOD:<br/>5 Q. Did you ever have to do any exercises<br/>6 before you went on the line in debone?<br/>7 A. When I first started, they did. But<br/>8 soon after that, they didn't do them anymore.<br/>9 Q. Just briefly tell me what you-all had<br/>10 to do on the exercises.<br/>11 A. Do stretch and work your fingers and<br/>12 your neck, you know, and your wrists.<br/>13 Q. And this is after you were fully<br/>14 suited in your PPEs?<br/>15 A. Yes.<br/>16 Q. And were these exercises, were they<br/>17 led by a supervisor or a line leader?<br/>18 A. Depending on if the supervisor was in<br/>19 production. If he wasn't, then the line leader led<br/>20 it.<br/>21 MR. UNDERWOOD: That's all.<br/>22<br/>23 EXAMINATION BY MR. FRY:</p> |

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| <p style="text-align: right;">46</p> <p>1 Q. How long did you spend exercising?</p> <p>2 A. It wasn't a long process, you know,</p> <p>3 like, you know.</p> <p>4 Q. A minute, two minutes?</p> <p>5 MR. UNDERWOOD: If you know.</p> <p>6 A. No more than two.</p> <p>7 Q. (Mr. Fry) And what were you told was</p> <p>8 the purpose of the exercises?</p> <p>9 A. So your hands wouldn't get stiff, and</p> <p>10 you know, work the muscles, loosen the muscles up</p> <p>11 before you start.</p> <p>12 Q. And you did these exercises when you</p> <p>13 were on the debone line?</p> <p>14 A. Yes.</p> <p>15 Q. Did you do these from the time you</p> <p>16 started on the debone line?</p> <p>17 A. Explain what you are saying.</p> <p>18 Q. When you first went on the debone</p> <p>19 line, is that when you did the exercises?</p> <p>20 A. Right. They started doing them. And</p> <p>21 soon after that, they stopped.</p> <p>22 Q. What did they tell you about them</p> <p>23 when they started them? What did they tell you</p> | <p style="text-align: right;">48</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008<br/>Commissioner and Notary Public</p> |
| <p style="text-align: right;">47</p> <p>1 about the exercises?</p> <p>2 A. They were for so you didn't have any</p> <p>3 injuries and stuff like that.</p> <p>4 Q. And who told you that?</p> <p>5 A. The line leaders.</p> <p>6 Q. What did they tell you when they</p> <p>7 stopped them?</p> <p>8 A. They didn't tell anything. They went</p> <p>9 in, and we didn't do them anymore.</p> <p>10 MR. FRY: Okay. Thank you.</p> <p>11 10:42 a.m.</p> <p>12 *****</p> <p>13 FURTHER DEPONENT SAITH NOT</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |   |

**TAB 30**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF

EVELYN LAMPLEY

JOB NO. 1101-58403

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 22nd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of EVELYN LAMPLEY may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 22nd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6, 38</p> <p>5 Mr. Underwood 35</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 Lampley Exhibit 1 32</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 Carl E. Underwood, III, Esq.</p> <p>5 THE COCHRAN FIRM</p> <p>6 163 West Main Street</p> <p>7 Dothan, Alabama 36302</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |



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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 9:13 a.m., EVELYN LAMPLEY, in<br/> 4 the above cause, for oral examination, whereupon<br/> 5 the following proceedings were had:<br/> 6<br/> 7 EVELYN LAMPLEY,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 COURT REPORTER: Usual<br/> 12 stipulations?<br/> 13 MR. UNDERWOOD: Yes.<br/> 14 MR. FRY: Yes.<br/> 15<br/> 16 EXAMINATION BY MR. FRY:<br/> 17 Q. Good morning, Ms. Lampley.<br/> 18 A. Good morning.<br/> 19 Q. I am one of the lawyers representing<br/> 20 Equity Group Eufaula -- the folks that run the<br/> 21 plant up here in Baker Hill -- and we have asked<br/> 22 you to come here today to put certain questions to<br/> 23 you concerning a lawsuit which you and some other</p>  | <p style="text-align: right;">8</p> <p>1 A. November 23rd, 1952.<br/> 2 Q. Are you currently employed?<br/> 3 A. Yes.<br/> 4 Q. By whom?<br/> 5 A. Equity Group.<br/> 6 Q. How long have you worked at Equity?<br/> 7 A. This year in August will be ten<br/> 8 years.<br/> 9 Q. So you started at the Baker Hill<br/> 10 plant in August of 1998?<br/> 11 A. Yes.<br/> 12 Q. When you started at the plant, was it<br/> 13 being operated by CP?<br/> 14 A. Yes.<br/> 15 Q. And do you recall about when Equity<br/> 16 took over the operation of the plant?<br/> 17 A. No.<br/> 18 Q. I would like you now to take me<br/> 19 through the jobs that you've had at the plant since<br/> 20 you've been there?<br/> 21 A. Debone line, or either pull breasts,<br/> 22 pull tenders, or clip tenders. That's it for<br/> 23 debone.</p> |
| <p style="text-align: right;">7</p> <p>1 folks have brought against the company. Have you<br/> 2 ever given a deposition before?<br/> 3 A. No.<br/> 4 Q. Okay. The procedure is fairly<br/> 5 simple. I will ask the questions, and you will<br/> 6 give me the answers. Victoria, the court reporter<br/> 7 here, will be taking down what we both say. If you<br/> 8 don't understand one of my questions, it's<br/> 9 important that you let me know that, so that I can<br/> 10 rephrase it so you will understand it. Okay?<br/> 11 A. Yes, sir.<br/> 12 Q. And if you don't hear my question or<br/> 13 you don't hear all of it, please let me know and I<br/> 14 will repeat it. And the only other rules are your<br/> 15 answers should be verbal as opposed to a nod or a<br/> 16 shake of the head, and we shouldn't talk over one<br/> 17 another. Don't anticipate my question, and I will<br/> 18 not break into it when you're answering. Okay?<br/> 19 A. Yes, sir.<br/> 20 Q. What's your home address?<br/> 21 A. 86 McGivary Road, Louisville,<br/> 22 Alabama.<br/> 23 Q. And what is your date of birth?</p> | <p style="text-align: right;">9</p> <p>1 Q. You are presently working at the<br/> 2 debone department?<br/> 3 A. Wash station now.<br/> 4 Q. Pardon?<br/> 5 A. Wash station.<br/> 6 Q. You are presently working at a wash<br/> 7 station?<br/> 8 A. Uh-huh.<br/> 9 Q. And what do you do there?<br/> 10 A. Wash chickens.<br/> 11 Q. How long have you had that job?<br/> 12 A. About a year and a half.<br/> 13 Q. What did you do before you got the<br/> 14 wash job?<br/> 15 A. I was on the debone line.<br/> 16 Q. How long had you been on the debone<br/> 17 line?<br/> 18 A. From since I had been out there.<br/> 19 Q. From the beginning, right?<br/> 20 A. Uh-huh.<br/> 21 Q. What shift do you currently work?<br/> 22 A. I work first shift.<br/> 23 Q. How long have you worked the first</p>                           |



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| <p style="text-align: right;">10</p> <p>1 shift?</p> <p>2 A. Since I've been out there.</p> <p>3 Q. For ten years?</p> <p>4 A. Yes.</p> <p>5 Q. Who is your present supervisor?</p> <p>6 A. Sampson Reeves.</p> <p>7 Q. What is your present rate of pay?</p> <p>8 A. \$9.95.</p> <p>9 Q. How many hours per week do you</p> <p>10 normally work?</p> <p>11 A. Forty.</p> <p>12 Q. Is that for five days a week?</p> <p>13 A. Yes.</p> <p>14 Q. You understand that you are a party</p> <p>15 to this lawsuit?</p> <p>16 A. Yes.</p> <p>17 Q. What's your understanding about what</p> <p>18 your claim is?</p> <p>19 A. Get paid for minutes that we didn't</p> <p>20 get paid for.</p> <p>21 Q. What do you believe you did that you</p> <p>22 have not been paid for?</p> <p>23 A. Pulling off clothes and putting them</p> | <p style="text-align: right;">12</p> <p>1 Q. Did you review any documents to</p> <p>2 prepare for your appearance here today?</p> <p>3 A. No.</p> <p>4 Q. Did you speak with anybody about your</p> <p>5 appearance here today besides your attorneys?</p> <p>6 A. No.</p> <p>7 Q. Your current position is as a</p> <p>8 washer -- is that what you're called?</p> <p>9 A. Yes.</p> <p>10 Q. Is that in the debone department?</p> <p>11 A. Yes.</p> <p>12 Q. Can you identify for me the articles</p> <p>13 of clothing that you wear every day in performing</p> <p>14 that job?</p> <p>15 A. Yes. Hair net, ear plugs, brown</p> <p>16 lining gloves, chain glove, sleeves, and the blue</p> <p>17 gloves on top of that.</p> <p>18 Q. Anything else?</p> <p>19 A. No.</p> <p>20 Q. What about a smock?</p> <p>21 A. Yes, smocks.</p> <p>22 Q. Do you use a knife as a washer?</p> <p>23 A. We use scissors, yes, sir.</p> |
| <p style="text-align: right;">11</p> <p>1 back on.</p> <p>2 Q. How did you come to have that</p> <p>3 understanding?</p> <p>4 A. We just wasn't getting our 30</p> <p>5 minutes.</p> <p>6 Q. Are you referring to the break period</p> <p>7 now?</p> <p>8 A. Yes.</p> <p>9 Q. How did you find out about the</p> <p>10 lawsuit?</p> <p>11 A. Flyers.</p> <p>12 Q. Did you talk to your coworkers about</p> <p>13 it?</p> <p>14 A. No.</p> <p>15 Q. Have you ever been involved in any</p> <p>16 other lawsuits with reference to the plant in Baker</p> <p>17 Hill?</p> <p>18 A. No.</p> <p>19 Q. Are you a member of the Union?</p> <p>20 A. No.</p> <p>21 Q. So I gather that you've never</p> <p>22 attended any Union meetings?</p> <p>23 A. No.</p>   | <p style="text-align: right;">13</p> <p>1 Q. Scissors?</p> <p>2 A. Scissors, yes, sir.</p> <p>3 Q. You wear boots?</p> <p>4 A. Yes.</p> <p>5 Q. Which of these items to your</p> <p>6 understanding are you required to wear?</p> <p>7 A. All of them.</p> <p>8 Q. From what you have been able to</p> <p>9 observe in the debone department, are all the</p> <p>10 employees in there clothed in the same way?</p> <p>11 A. Yes.</p> <p>12 Q. Which of the items that you have</p> <p>13 identified for me are issued to you by the company?</p> <p>14 A. All of them.</p> <p>15 Q. Which of those items do you pick up</p> <p>16 on a daily basis?</p> <p>17 A. The smocks.</p> <p>18 Q. Anything else?</p> <p>19 A. Well, we get issues three times a</p> <p>20 week of the gloves.</p> <p>21 Q. Are you permitted to wear any of</p> <p>22 these items from your home?</p> <p>23 A. No, no more than boots.</p>            |

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| <p style="text-align: right;">14</p> <p>1 Q. Pardon?</p> <p>2 A. No more than your boots.</p> <p>3 Q. Just your boots?</p> <p>4 A. Yes.</p> <p>5 Q. Do you wear boots that were issued to</p> <p>6 you by the company?</p> <p>7 A. Yes.</p> <p>8 Q. To your understanding are you</p> <p>9 permitted to use your own boots?</p> <p>10 A. No.</p> <p>11 Q. You're not?</p> <p>12 A. No.</p> <p>13 Q. When you are not in the plant, where</p> <p>14 do you keep these items that you just identified</p> <p>15 for me?</p> <p>16 A. On the rack.</p> <p>17 Q. Overnight?</p> <p>18 A. No, we take them home -- all but the</p> <p>19 smocks.</p> <p>20 Q. You take everything home except the</p> <p>21 smocks?</p> <p>22 A. We leave them in our locker.</p> <p>23 Q. And what do you do? Do you take</p>  | <p style="text-align: right;">16</p> <p>1 inside the production floor?</p> <p>2 A. Yes.</p> <p>3 Q. Do you put all of those items on</p> <p>4 inside the production floor?</p> <p>5 A. No. The ear plugs and the hair net,</p> <p>6 that go on before you go inside.</p> <p>7 Q. When do you put these items on?</p> <p>8 A. Every morning.</p> <p>9 Q. I mean, when in relationship to when</p> <p>10 your job starts?</p> <p>11 A. When we go on the inside.</p> <p>12 Q. And does your production shift start</p> <p>13 at 7:30?</p> <p>14 A. Sometimes.</p> <p>15 Q. If it doesn't start at 7:30, when</p> <p>16 might it start?</p> <p>17 A. Well, sometimes they will be still</p> <p>18 cleaning up.</p> <p>19 Q. So the sanitation people might not be</p> <p>20 finished?</p> <p>21 A. Right.</p> <p>22 Q. So you're delayed a little bit?</p> <p>23 A. Right.</p> |
| <p style="text-align: right;">15</p> <p>1 those items home, or do you leave them in your</p> <p>2 locker?</p> <p>3 A. I mostly just leave my boots there.</p> <p>4 Q. When you were working on the debone</p> <p>5 line, did you wear the same items that you just</p> <p>6 identified for me?</p> <p>7 A. Yes.</p> <p>8 Q. Did you wear anything else?</p> <p>9 A. No.</p> <p>10 Q. What are the hours of the first shift</p> <p>11 at the plant?</p> <p>12 A. Eight hours a day.</p> <p>13 Q. And what time do you start?</p> <p>14 A. 7:30.</p> <p>15 Q. What time do you finish?</p> <p>16 A. 4:30.</p> <p>17 Q. I want you to tell me now where you</p> <p>18 put these items on that you just described for me</p> <p>19 that you wear in connection with your job.</p> <p>20 A. Inside debone.</p> <p>21 Q. Inside the production floor?</p> <p>22 A. Yes.</p> <p>23 Q. Are you required to put them on</p> | <p style="text-align: right;">17</p> <p>1 Q. The scissors that you use, how are</p> <p>2 they provided to you?</p> <p>3 A. Supervisor.</p> <p>4 Q. When are they provided to you?</p> <p>5 A. Mornings.</p> <p>6 Q. Are they given to you when you're on</p> <p>7 the line?</p> <p>8 A. We get them before we get on the</p> <p>9 line.</p> <p>10 Q. Do you get them in the production</p> <p>11 floor?</p> <p>12 A. Yes.</p> <p>13 Q. You don't have to go to a supply shed</p> <p>14 to pick them up, do you?</p> <p>15 A. No.</p> <p>16 Q. They are provided to you by a line</p> <p>17 leader?</p> <p>18 A. Yes.</p> <p>19 Q. Do you use anything else in</p> <p>20 connection with your job?</p> <p>21 A. No.</p> <p>22 Q. How many breaks do you get during the</p> <p>23 day?</p>  |

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| <p style="text-align: right;">18</p> <p>1 A. Two.</p> <p>2 Q. How long are each of the breaks?</p> <p>3 A. Supposed to be 30 minutes -- 30.</p> <p>4 Q. Where do you take your break?</p> <p>5 A. Where?</p> <p>6 Q. Yes, ma'am.</p> <p>7 A. I don't understand.</p> <p>8 Q. When it's time for you to take your</p> <p>9 break, do you go to the debone break room?</p> <p>10 A. Yes.</p> <p>11 Q. That's where you take your break?</p> <p>12 A. Yes.</p> <p>13 Q. And where is that located in</p> <p>14 relationship to where you perform your job in the</p> <p>15 debone room?</p> <p>16 A. Outside where you go in at.</p> <p>17 Q. It's right across the hall?</p> <p>18 A. Yes.</p> <p>19 Q. What times during the shift do you</p> <p>20 take your breaks?</p> <p>21 A. 10:15 and 1:15.</p> <p>22 Q. Is it your understanding that the</p> <p>23 break time is unpaid time?</p>  | <p style="text-align: right;">20</p> <p>1 your scheduled start-up time again?</p> <p>2 A. Rephrase that, please.</p> <p>3 Q. Sure. That was a dumb question.</p> <p>4 You're right. I agree with you. Let me rephrase</p> <p>5 that. Your first break is at 10:15?</p> <p>6 A. Yes.</p> <p>7 Q. And it's a 30-minute break?</p> <p>8 A. Yes.</p> <p>9 Q. So I assume then that your break is</p> <p>10 supposed to end at 10:45?</p> <p>11 A. Right.</p> <p>12 Q. How soon before 10:45 do you go back</p> <p>13 into the production floor?</p> <p>14 A. We have to be on the floor, back in</p> <p>15 by then.</p> <p>16 Q. So it takes you a little bit of time</p> <p>17 to get there, correct?</p> <p>18 A. Yes.</p> <p>19 Q. How soon do you leave the break room</p> <p>20 to get to your position on the production line?</p> <p>21 A. About five or six minutes.</p> <p>22 Q. Do you drive to the plant each day?</p> <p>23 A. No, I don't.</p> |
| <p style="text-align: right;">19</p> <p>1 A. Yes.</p> <p>2 Q. How do you know when it's time for</p> <p>3 you to take your break?</p> <p>4 A. They will call "break".</p> <p>5 Q. Does the line leader call "break"?</p> <p>6 A. Yes.</p> <p>7 Q. As soon as the line leader calls</p> <p>8 "break", are you permitted to leave your</p> <p>9 workstation?</p> <p>10 A. Yes.</p> <p>11 Q. You don't have to wait for the</p> <p>12 chicken to stop coming to you?</p> <p>13 A. No, I have to cover them up.</p> <p>14 Q. When you were working on the debone</p> <p>15 line and it was break time, am I correct that you</p> <p>16 had to wait until the last chicken passed your</p> <p>17 position before you could take the break?</p> <p>18 A. Yes.</p> <p>19 Q. How do you know that your break time</p> <p>20 is finished and it's time to go back onto the</p> <p>21 production floor?</p> <p>22 A. You have to look at the clock.</p> <p>23 Q. How soon do you go back in before</p> | <p style="text-align: right;">21</p> <p>1 Q. You get a ride?</p> <p>2 A. Yes.</p> <p>3 Q. What time do you usually get to the</p> <p>4 plant?</p> <p>5 A. Sometimes seven, 7:15.</p> <p>6 Q. The car that you ride in, is it</p> <p>7 stopped at the security shack?</p> <p>8 A. It was, but they got a permit, a</p> <p>9 sticker.</p> <p>10 Q. So it has a sticker on there?</p> <p>11 A. Yes.</p> <p>12 Q. And because it has a sticker, the</p> <p>13 guard in the guard shack just lets the driver into</p> <p>14 the plant area, correct?</p> <p>15 A. Right.</p> <p>16 Q. At the end of the day when you leave,</p> <p>17 you don't have to stop at all, do you?</p> <p>18 A. No.</p> <p>19 Q. Have you ever been searched before</p> <p>20 you enter the plant?</p> <p>21 A. No.</p> <p>22 Q. Have your personal possessions ever</p> <p>23 been searched before you went into the plant?</p>   |

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| <p style="text-align: right;">22</p> <p>1 A. No.</p> <p>2 Q. How about when you left the plant at</p> <p>3 the end of the day, have you ever been searched?</p> <p>4 A. No.</p> <p>5 Q. What I'd like for you to describe for</p> <p>6 me now, Ms. Lampley, is what you do after your ride</p> <p>7 parks the car and you go into the plant. Take me</p> <p>8 through what you do before you actually start</p> <p>9 performing your work.</p> <p>10 A. I clock in, then I go get me a smock.</p> <p>11 Q. When you go to get your smock, you go</p> <p>12 to the supply room?</p> <p>13 A. Yes, yes.</p> <p>14 Q. Do you have to wait to get your</p> <p>15 smock?</p> <p>16 A. We be in lines.</p> <p>17 Q. How quickly do the lines pass</p> <p>18 through?</p> <p>19 A. Not long.</p> <p>20 Q. Not long?</p> <p>21 A. No.</p> <p>22 Q. After you pick up your smock, where</p> <p>23 do you go?</p>  | <p style="text-align: right;">24</p> <p>1 Q. Approximately what time do you leave</p> <p>2 the break room to go into the debone production</p> <p>3 floor?</p> <p>4 A. Five, six minutes.</p> <p>5 Q. Five or six minutes before the start</p> <p>6 of the shift -- so it's about 7:25, 7:24?</p> <p>7 A. Yes.</p> <p>8 Q. Tell me what you do when you go into</p> <p>9 the production floor. First off, you have to go</p> <p>10 through a foot bath?</p> <p>11 A. Yes.</p> <p>12 Q. And you walk through that?</p> <p>13 A. Yes.</p> <p>14 Q. And then you walk through two double</p> <p>15 doors, and the foot bath is in the middle?</p> <p>16 A. Yes.</p> <p>17 Q. So you walk through those doors, and</p> <p>18 you get into the production floor. Tell me what</p> <p>19 you do then.</p> <p>20 A. Put my stuff on.</p> <p>21 Q. You put your smock, your apron, your</p> <p>22 sleeves, and your gloves on?</p> <p>23 A. Yes.</p>  |
| <p style="text-align: right;">23</p> <p>1 A. Sit down and get all my stuff</p> <p>2 together.</p> <p>3 Q. Where do you do that?</p> <p>4 A. Inside the debone break room.</p> <p>5 Q. What do you put on?</p> <p>6 A. I can't put nothing on in there but</p> <p>7 my hair net and plugs.</p> <p>8 Q. And your boots?</p> <p>9 A. Yes, I mostly already have them on.</p> <p>10 Q. So once you go into the break room,</p> <p>11 what do you do?</p> <p>12 A. I sit down and get my stuff out my</p> <p>13 bag and put it in the locker.</p> <p>14 Q. Then what do you do?</p> <p>15 A. Sit back down until it's time to go</p> <p>16 in.</p> <p>17 Q. And how much time do you usually sit</p> <p>18 there in the morning before it's time to go in?</p> <p>19 A. Sometimes ten minutes.</p> <p>20 Q. While you're sitting there, do you</p> <p>21 see some people coming into the break room that</p> <p>22 work with you that arrived at the plant after you?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">25</p> <p>1 Q. How long does it take you to walk</p> <p>2 from the break room into the production room floor?</p> <p>3 A. It's about a minute and a half.</p> <p>4 Q. It's right across the hallway, isn't</p> <p>5 it?</p> <p>6 A. Yes.</p> <p>7 Q. Before you go to your workstation,</p> <p>8 are you required to do any washing?</p> <p>9 A. Washing of what, sir?</p> <p>10 Q. Well, I don't know. I'm asking you.</p> <p>11 After you put your stuff on, do you have to wash</p> <p>12 it?</p> <p>13 A. Yes. We have to wash up, yes.</p> <p>14 Q. How long does that take?</p> <p>15 A. Probably about a minute or two.</p> <p>16 Q. How long does it take you to put the</p> <p>17 smock, the apron, and the sleeves on?</p> <p>18 A. About five, six minutes.</p> <p>19 Q. Tell me what you need to do when it's</p> <p>20 time for you to go on break.</p> <p>21 A. Wash off and put -- we put the</p> <p>22 scissors up.</p> <p>23 Q. Where do you put the scissors?</p> |

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| <p style="text-align: right;">26</p> <p>1 A. In a little tool box like.</p> <p>2 Q. And where is that tool box located?</p> <p>3 A. Just a couple of -- just right on the</p> <p>4 side.</p> <p>5 Q. Right where you work?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Okay, you wash off. What do you do</p> <p>8 then?</p> <p>9 A. Pull our clothes off.</p> <p>10 Q. Then what do you do?</p> <p>11 A. Go in for break.</p> <p>12 Q. How long does it take you to walk</p> <p>13 over, wash off, take your clothes off -- or take</p> <p>14 your outer garments off, and go into the break</p> <p>15 room?</p> <p>16 A. A good three, four minutes.</p> <p>17 Q. Am I correct that you take all of the</p> <p>18 items that you describe for me off except your hair</p> <p>19 net, your ear plugs, and your boots?</p> <p>20 A. Right.</p> <p>21 Q. When you worked on the debone line,</p> <p>22 did you follow pretty much the same procedure when</p> <p>23 you left for break?</p> | <p style="text-align: right;">28</p> <p>1 Q. Right at your workstation?</p> <p>2 A. Yes.</p> <p>3 Q. So you put the scissors in the tote</p> <p>4 and you go and wash off?</p> <p>5 A. Yes.</p> <p>6 Q. Then you take off the apron, the</p> <p>7 smock, and the sleeves?</p> <p>8 A. Yes.</p> <p>9 Q. What do you do with them?</p> <p>10 A. Do with what?</p> <p>11 Q. What do you do with the apron and</p> <p>12 sleeves?</p> <p>13 A. I take them home.</p> <p>14 Q. What do you do with the smock?</p> <p>15 A. We throw it in the basket out in the</p> <p>16 hall.</p> <p>17 Q. After you throw the smock in the</p> <p>18 basket, what do you do?</p> <p>19 A. Go in and get in line to clock out.</p> <p>20 Q. How long approximately does it take</p> <p>21 you to clock out after you leave your workstation?</p> <p>22 A. Depends on how many people is in</p> <p>23 line.</p>  |
| <p style="text-align: right;">27</p> <p>1 A. Yes.</p> <p>2 Q. Take me now through the reverse</p> <p>3 procedure. Your break is over now and it's time to</p> <p>4 go back to work. Tell me what you do.</p> <p>5 A. Put our clothes back on, wash them,</p> <p>6 and start working.</p> <p>7 Q. How long does that take you?</p> <p>8 A. Just a couple of minutes.</p> <p>9 Q. Describe for me now what you do at</p> <p>10 the end of the shift when it's time for you to</p> <p>11 leave.</p> <p>12 A. We pull our stuff off to be ready to</p> <p>13 go home.</p> <p>14 Q. What do you do with the scissors?</p> <p>15 A. We put them back in our tote.</p> <p>16 Q. Does the line leader pick up the</p> <p>17 scissors?</p> <p>18 A. No, we take them in there and put</p> <p>19 them in there ourselves.</p> <p>20 Q. Where do you put the scissors?</p> <p>21 A. In the tote.</p> <p>22 Q. And where is that located?</p> <p>23 A. Right next to us.</p>               | <p style="text-align: right;">29</p> <p>1 Q. Can you put an estimate on the amount</p> <p>2 of time it takes you?</p> <p>3 A. No.</p> <p>4 Q. Ms. Lampley, what is your</p> <p>5 understanding as to how Equity keeps track of the</p> <p>6 hours that you work?</p> <p>7 A. We clock out, clock in.</p> <p>8 Q. That's your --</p> <p>9 A. And they see if everybody is there on</p> <p>10 paper every day.</p> <p>11 Q. Pardon?</p> <p>12 A. They got a sheet and they see that</p> <p>13 everybody is there.</p> <p>14 Q. What is your understanding of when</p> <p>15 the time starts for which you are to be paid?</p> <p>16 A. Pardon me?</p> <p>17 Q. What's your understanding as to when</p> <p>18 you're supposed to start being paid?</p> <p>19 A. 7:30.</p> <p>20 Q. Is it your understanding that you're</p> <p>21 to stop being paid at 4:30?</p> <p>22 A. Yes.</p> <p>23 Q. Have you ever had occasion to go to a</p> |

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| <p style="text-align: right;">30</p> <p>1 supervisor or to payroll and complain about what</p> <p>2 you thought that your check was short?</p> <p>3 A. No.</p> <p>4 Q. Do you receive a payroll check every</p> <p>5 week?</p> <p>6 A. Yes.</p> <p>7 Q. And do you look at the payroll</p> <p>8 information that's included on the stub?</p> <p>9 A. Yes.</p> <p>10 Q. Do you keep track of the hours that</p> <p>11 you work?</p> <p>12 A. Yes.</p> <p>13 Q. And how do you do that?</p> <p>14 A. I know what time I -- how many hours</p> <p>15 I be there a day.</p> <p>16 Q. Do you keep notes of --</p> <p>17 A. No.</p> <p>18 Q. You don't keep a note or a diary or</p> <p>19 anything as to how many hours you work in a day?</p> <p>20 A. No.</p> <p>21 Q. Do you know of anyone who does?</p> <p>22 A. No.</p> <p>23 Q. Have you made any kind of</p>   | <p style="text-align: right;">32</p> <p>1 (WHEREUPON, a document was</p> <p>2 marked as Lampley Exhibit 1 and</p> <p>3 is attached to the original</p> <p>4 transcript.)</p> <p>5 Q. (Mr. Fry) Ms. Lampley, I am showing</p> <p>6 you a document that's marked Lampley Exhibit 1, and</p> <p>7 it's titled Declaration. And would you take a</p> <p>8 minute and look at that for me, please?</p> <p>9 A. Okay.</p> <p>10 Q. And when you're through reviewing</p> <p>11 it -- I just have a few questions about it -- just</p> <p>12 let me know -- okay?</p> <p>13 9:45 a.m.</p> <p>14 (Plaintiff reviews Lampley</p> <p>15 Exhibit 1.)</p> <p>16 9:47 a.m.</p> <p>17 Q. (Mr. Fry) Finished?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Is that your signature on Page 3?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recall signing this document?</p> <p>22 A. Yes.</p> <p>23 Q. Do you recall reading it before you</p>  |
| <p style="text-align: right;">31</p> <p>1 calculations as to the time worked for which you</p> <p>2 believe you should be paid in this lawsuit?</p> <p>3 A. No.</p> <p>4 Q. Have you ever been asked or required</p> <p>5 to work overtime?</p> <p>6 A. Yes.</p> <p>7 Q. And when that occurs, are you paid</p> <p>8 time-and-a-half to your knowledge?</p> <p>9 A. Yes.</p> <p>10 Q. Have you ever had any complaints</p> <p>11 about how your overtime pay is calculated?</p> <p>12 A. No.</p> <p>13 Q. Have you ever complained to any</p> <p>14 supervisor about any pay issues since you've been</p> <p>15 working out at Baker Hill?</p> <p>16 A. No.</p> <p>17 Q. Over the time that you've worked</p> <p>18 there, have you ever been written up for any</p> <p>19 infraction, work rule infraction?</p> <p>20 A. No more than about a bone. That's</p> <p>21 been four or five years ago.</p> <p>22 MR. FRY: Let's mark this as</p> <p>23 Lampley Exhibit 1.</p> | <p style="text-align: right;">33</p> <p>1 signed it?</p> <p>2 A. Yes.</p> <p>3 Q. And when you read it, did everything</p> <p>4 appear accurate to you?</p> <p>5 A. Yes, sir.</p> <p>6 Q. I want to refer you to Paragraph 10,</p> <p>7 which is on Page 3. And the second sentence in</p> <p>8 Paragraph 10 reads, quote, numerous employees have</p> <p>9 expressed their desire to join this litigation but</p> <p>10 have not done so to date because of fear of</p> <p>11 retaliation by Defendant and its managers, period,</p> <p>12 closed quote. Did I read that correctly? Do you</p> <p>13 see it?</p> <p>14 A. Yes, I see it.</p> <p>15 Q. What information do you have about</p> <p>16 the information that's contained in that sentence?</p> <p>17 Do you have any?</p> <p>18 A. No.</p> <p>19 Q. The last sentence in Paragraph 10</p> <p>20 reads, quote, to that end, Defendants and its</p> <p>21 managers have attempted to discourage and/or</p> <p>22 intimidate my coworkers from joining this lawsuit</p> <p>23 by issuing both expressed and implied threats</p> |



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| <p style="text-align: right;">34</p> <p>1 involving job security, period, end quote. Have I<br/>2 read that correctly? Do you see it?<br/>3 A. Yes, I see it.<br/>4 Q. Do you know of any coworkers that<br/>5 were threatened about joining this lawsuit?<br/>6 A. No.<br/>7 Q. When you read that paragraph before<br/>8 you signed it, did you tell anybody it wasn't<br/>9 accurate? You have to verbalize. Ms. Lampley, do<br/>10 you have any information about any of the<br/>11 allegations in Paragraph 10?<br/>12 A. No.<br/>13 Q. When you were asked to sign this<br/>14 Declaration, did you tell the person that asked you<br/>15 to sign it that you had no such information?<br/>16 A. No.<br/>17 Q. Who was the person that asked you to<br/>18 sign this Declaration?<br/>19 A. I don't know.<br/>20 Q. You don't remember?<br/>21 A. No, sir.<br/>22 Q. Was it one of the lawyers?<br/>23 MR. UNDERWOOD: I think she said</p> | <p style="text-align: right;">36</p> <p>1 ever observed you doing that?<br/>2 A. Yes.<br/>3 Q. Have they observed you very often<br/>4 doing that?<br/>5 A. Yes.<br/>6 Q. When you go in and out of the debone,<br/>7 when you worked in debone, you had to decontaminate<br/>8 or sanitize your boots every time; is that correct?<br/>9 A. Yes.<br/>10 Q. You'd have to stop in the hallway<br/>11 there, step in that thing, and you'd have to press<br/>12 a button to spray the stuff in there. Is that yes?<br/>13 A. Yes.<br/>14 Q. And you had to do that when you went<br/>15 out?<br/>16 A. Yes.<br/>17 Q. And when you came back in?<br/>18 A. Yes.<br/>19 Q. And you had to physically stop to<br/>20 press that button; is that accurate?<br/>21 A. Yes.<br/>22 Q. I know you've testified that you<br/>23 carry your boots home now, right?</p> |
| <p style="text-align: right;">35</p> <p>1 she just didn't know. Is that right?<br/>2 A. I don't know.<br/>3 Q. (Mr. Fry) Where did you sign it, do<br/>4 you recall?<br/>5 A. No.<br/>6 Q. But do you recall that you signed it<br/>7 on or about February 24 of 2007?<br/>8 A. Yes.<br/>9 MR. FRY: Thank you. That's all<br/>10 I have.<br/>11 MR. UNDERWOOD: I've got just<br/>12 some follow-ups I want to ask you.<br/>13<br/>14 EXAMINATION BY MR. UNDERWOOD:<br/>15 Q. The clothes you were talking about<br/>16 you had to put on when you come in and take on and<br/>17 off at breaks, you ever heard that called PPE?<br/>18 A. Yes.<br/>19 Q. That's what it's actually called,<br/>20 right?<br/>21 A. Yes.<br/>22 Q. When you're changing in and out of<br/>23 those clothes at your break, have your supervisors</p>   | <p style="text-align: right;">37</p> <p>1 A. Yes.<br/>2 Q. There was a time period where you<br/>3 were not allowed to carry your boots home; is that<br/>4 accurate?<br/>5 A. Yes.<br/>6 Q. Let me ask you this -- up until about<br/>7 a year and a half ago you could not carry your<br/>8 boots home; is that right?<br/>9 A. Yes.<br/>10 Q. And in the ten years you've been<br/>11 employed there, up until a year and half ago you<br/>12 could not carry your boots home; is that right?<br/>13 A. Right.<br/>14 Q. Before you go on the line, do you-all<br/>15 perform any type exercises?<br/>16 A. Yes.<br/>17 Q. And it's everybody on the line?<br/>18 A. Yes.<br/>19 Q. And you-all are led by your line<br/>20 leader or a supervisor?<br/>21 A. Supervisor.<br/>22 Q. Supervisor leads you in these<br/>23 exercises?</p>                    |

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| <p style="text-align: right;">38</p> <p>1 A. Yes.</p> <p>2 Q. And it's some stretching -- and just</p> <p>3 sort of show what you do. You do your neck?</p> <p>4 A. Neck, and then you --</p> <p>5 Q. Your arms?</p> <p>6 A. Then you do --</p> <p>7 Q. All right. And that's before you get</p> <p>8 on the line?</p> <p>9 A. Yes.</p> <p>10 MR. UNDERWOOD: That's all I</p> <p>11 have.</p> <p>12 MR. FRY: Just a few questions.</p> <p>13</p> <p>14 EXAMINATION BY MR. FRY:</p> <p>15 Q. When you go into the area where your</p> <p>16 boots are sanitized now, do you have to stop?</p> <p>17 A. You walk through.</p> <p>18 Q. You just walk through, don't you?</p> <p>19 A. Yes.</p> <p>20 Q. Now you don't have to stop, do you?</p> <p>21 A. Wherever they cut it -- they leave</p> <p>22 water in there that's soapy.</p> <p>23 Q. You can just walk through now?</p>   | <p style="text-align: right;">40</p> <p>1 9:55 a.m.</p> <p>2 *****</p> <p>3 FURTHER DEPONENT SAITH NOT</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">39</p> <p>1 A. Yes.</p> <p>2 Q. You don't have to stop?</p> <p>3 A. Sometimes. Sometimes you have to</p> <p>4 stop, and sometimes you just go on.</p> <p>5 Q. These exercises that you do before</p> <p>6 the work starts, is that part of your claim in this</p> <p>7 lawsuit?</p> <p>8 MR. UNDERWOOD: I'm going to</p> <p>9 answer that for them. That's a legal opinion, and</p> <p>10 it depends on whether they have been paid for that</p> <p>11 or not. We do not know at this time, so we cannot</p> <p>12 answer as to whether we were making a claim for it.</p> <p>13 Q. (Mr. Fry) Do you know whether you're</p> <p>14 paid for those exercises?</p> <p>15 A. No.</p> <p>16 Q. How long have you been doing the</p> <p>17 exercises?</p> <p>18 A. They've been doing it for the last</p> <p>19 two years.</p> <p>20 Q. Constantly, every day?</p> <p>21 A. Yes.</p> <p>22 MR. FRY: Okay.</p> <p>23 MR. UNDERWOOD: All right.</p> | <p style="text-align: right;">41</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |



**TAB 31**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner

and Certified Court Reporter

DEPOSITION TESTIMONY OF  
SERENDA LAMPLEY

\*\*\*\*\*

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of SERENDA LAMPLEY</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 22nd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-31</p> <p>4   MR. KISER                 31</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   (No exhibits were</p> <p>8   submitted to said deposition.)</p> <p>9</p> <p>10   Reporter's Certificate         32</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2   or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4   that the notice of filing of the deposition by</p> <p>5   the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. JACOB A. KISER</p> <p>5       WIGGINS, CHILDS,</p> <p>6       QUINN &amp; PANTAZIS, LLC</p> <p>7       ATTORNEYS AT LAW</p> <p>8       The Kress Building</p> <p>9       301 Nineteenth Street North</p> <p>10      Birmingham, Alabama 35203</p> <p>11      (205) 314-0614</p> <p>12</p> <p>13   ON BEHALF OF THE DEFENDANT:</p> <p>14       MR. MALCOLM S. GOULD</p> <p>15       PELINO &amp; LENTZ</p> <p>16       ATTORNEYS AT LAW</p> <p>17       One Liberty Place</p> <p>18       Thirty-Second Floor</p> <p>19       1650 Market Street</p> <p>20       Philadelphia, Pennsylvania 19103</p> <p>21       (215) 665-1540</p> <p>22</p> <p>23   *****</p> |

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified<br/> 2 Court Reporter of Eufaula, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at the Law Offices of WILLIAMS,<br/> 7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange<br/> 8 Avenue, Eufaula, Alabama 36027, beginning at<br/> 9 11:55 a.m., SERENDA LAMPLEY, witness in the above<br/> 10 cause, for oral examination, whereupon the<br/> 11 following proceedings were had:<br/> 12<br/> 13 SERENDA LAMPLEY,<br/> 14 being first duly sworn, was examined and<br/> 15 testified as follows:<br/> 16<br/> 17 THE COURT REPORTER: Usual<br/> 18 stipulations?<br/> 19 MR. KISER: Yes.<br/> 20 MR. GOULD: Yes.<br/> 21<br/> 22 EXAMINATION<br/> 23 BY MR. GOULD:</p>   | <p style="text-align: right;">8</p> <p>1 whole question before answering.<br/> 2 If I ask a question and you don't understand<br/> 3 it, just let me know and I'll try and repeat the<br/> 4 question or ask the question in a different way so<br/> 5 that it's not so confusing.<br/> 6 I don't anticipate that the deposition will<br/> 7 take long; but if you feel you need to take a<br/> 8 break, just let me know; it's not a problem.<br/> 9 A. Okay.<br/> 10 Q. Do you understand those instructions?<br/> 11 A. Yes.<br/> 12 Q. Could you state your full name for the<br/> 13 record, please?<br/> 14 A. Serenda Lampley.<br/> 15 Q. And, Ms. Lampley, what is your home address?<br/> 16 A. P.O. Box 51, Louisville, Alabama 36048.<br/> 17 Q. Is that also your street address?<br/> 18 A. No.<br/> 19 Q. Could you provide your street address,<br/> 20 please?<br/> 21 A. Highway 130. The number is 104.<br/> 22 Q. Okay. Thank you. And are you currently<br/> 23 employed, Ms. Lampley?</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good morning, Ms. Lampley.<br/> 2 A. Good morning.<br/> 3 Q. My name is Malcolm Gould. I'm an attorney<br/> 4 from the law firm of Pelino &amp; Lentz in<br/> 5 Philadelphia. I represent Equity Group Eufaula<br/> 6 Division, LLC, in a lawsuit that's been filed in<br/> 7 Federal Court in the Middle District of Alabama.<br/> 8 You are a plaintiff in that lawsuit, and we're<br/> 9 here today to take your deposition.<br/> 10 As you can see, we have a court reporter<br/> 11 here. She's going to take down my questions and<br/> 12 your answers. Because of that, I would ask that<br/> 13 you keep all of your answers verbal, yes or no,<br/> 14 instead of a nod of the head or a shaking of the<br/> 15 head or instead of an uh-huh or huh-uh. It will<br/> 16 make it easier for her to make a record of our<br/> 17 dialogue.<br/> 18 A. Okay.<br/> 19 Q. I would also ask that you wait until I<br/> 20 finish my question before you give your answer.<br/> 21 That way we're not talking over each other, and,<br/> 22 once again, it makes the court reporter's job a<br/> 23 little easier. It also means that you'll hear my</p> | <p style="text-align: right;">9</p> <p>1 A. Yes.<br/> 2 Q. And where do you work?<br/> 3 A. Equity Group.<br/> 4 Q. And how long have you worked there?<br/> 5 A. Four years.<br/> 6 Q. And in what position do you work?<br/> 7 A. Bone sampler.<br/> 8 Q. That's on the debone line; is that correct?<br/> 9 A. Yes.<br/> 10 Q. During the four years you've been employed<br/> 11 at the plant, have you always worked on the debone<br/> 12 line?<br/> 13 A. Yes.<br/> 14 Q. Now, in your work as a bone sampler on the<br/> 15 debone line, will you also rotate positions<br/> 16 throughout your shift?<br/> 17 A. No.<br/> 18 Q. So you stay in the bone sampling position<br/> 19 for the entire nine-hour shift?<br/> 20 A. Yes.<br/> 21 Q. Which shift do you work?<br/> 22 A. First.<br/> 23 Q. So you work day shift; is that correct?</p>  |

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| <p style="text-align: right;">10</p> <p>1 A. Yes.</p> <p>2 Q. What time does your shift start?</p> <p>3 A. 7:30.</p> <p>4 Q. And do you have a scheduled end time?</p> <p>5 A. 4:30.</p> <p>6 MR. KISER: Can we go off the record</p> <p>7 for a minute?</p> <p>8 MR. GOULD: Sure.</p> <p>9 (An off-the-record discussion</p> <p>10 was held.)</p> <p>11 (BY MR. GOULD)</p> <p>12 Q. And have you always worked day shift?</p> <p>13 A. Yes.</p> <p>14 Q. Have you worked any other positions in</p> <p>15 debone during the four years you've been working</p> <p>16 at the plant?</p> <p>17 A. No.</p> <p>18 Q. So you've been a bone sampler for the entire</p> <p>19 four years?</p> <p>20 A. Yes.</p> <p>21 Q. Now, you understand that you are a plaintiff</p> <p>22 in this lawsuit, correct?</p> <p>23 A. Yes.</p>  | <p style="text-align: right;">12</p> <p>1 I ask you a question and you don't know the answer</p> <p>2 you would just say you don't know or you don't</p> <p>3 remember than having you try and guess.</p> <p>4 MR. KISER: He doesn't want you</p> <p>5 guessing, and you don't want to guess.</p> <p>6 THE WITNESS: Okay.</p> <p>7 Q. Ma'am, how did you first find out about the</p> <p>8 lawsuit?</p> <p>9 A. I got a phone number at the job. It was a</p> <p>10 1-800 number, and I called.</p> <p>11 Q. And is that the number for a law firm?</p> <p>12 A. Yes.</p> <p>13 Q. Where did you get the number from?</p> <p>14 A. Another employee.</p> <p>15 Q. And who was that?</p> <p>16 A. The name.</p> <p>17 Q. Yes, ma'am.</p> <p>18 A. Gertha McCrae.</p> <p>19 Q. And did he tell you anything about the</p> <p>20 lawsuit?</p> <p>21 A. No.</p> <p>22 Q. He just gave you a phone number and said</p> <p>23 call this number?</p>                                 |
| <p style="text-align: right;">11</p> <p>1 Q. What is your understanding as to what the</p> <p>2 lawsuit is about?</p> <p>3 A. I don't know.</p> <p>4 MR. KISER: Object to the form. You</p> <p>5 can answer it. Do you understand what he's asking</p> <p>6 you?</p> <p>7 A. I mean, I don't understand the question.</p> <p>8 Q. Sure. Do you have any understanding as to</p> <p>9 the claims that you are asserting as a plaintiff</p> <p>10 in this lawsuit?</p> <p>11 A. (No response.)</p> <p>12 Q. What do you think lawsuit is about?</p> <p>13 A. It's about the PPE, the time.</p> <p>14 Q. So you believe that the lawsuit is about</p> <p>15 time spent putting on or taking off clothing or</p> <p>16 equipment or whatever it may be?</p> <p>17 A. Equipment.</p> <p>18 Q. Is there anything else that you believe is</p> <p>19 involved in the lawsuit?</p> <p>20 A. I don't know. I mean, I don't know what</p> <p>21 else is involved.</p> <p>22 Q. Throughout the deposition, "I don't know" is</p> <p>23 an acceptable answer. I would much rather that if</p> | <p style="text-align: right;">13</p> <p>1 A. Yes.</p> <p>2 Q. He didn't say there was a lawsuit against</p> <p>3 the company?</p> <p>4 A. Yeah, he said there was a lawsuit.</p> <p>5 Q. Did he tell you what the lawsuit was about?</p> <p>6 A. No.</p> <p>7 Q. During the time that you've been employed at</p> <p>8 the plant, have you ever been a member of the</p> <p>9 union?</p> <p>10 A. No.</p> <p>11 Q. You don't have any money taken out of your</p> <p>12 paycheck weekly for union dues?</p> <p>13 A. No.</p> <p>14 Q. Have you ever attended any union meetings?</p> <p>15 A. No.</p> <p>16 Q. Ma'am, as a bone sampler, are there items of</p> <p>17 clothing or equipment that you have to wear when</p> <p>18 you're out on the production floor?</p> <p>19 MR. KISER: Standard objection, PPE.</p> <p>20 You can answer.</p> <p>21 A. Yes.</p> <p>22 Q. Could you list those for me, please?</p> <p>23 A. Earplugs, hair net, gloves, sleeves, boots,</p> |

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| <p style="text-align: right;">14</p> <p>1 apron, smock.</p> <p>2 Q. Does the position of bone sampler require</p> <p>3 you to use a knife or scissors?</p> <p>4 A. No.</p> <p>5 Q. So you don't have to wear a hard plastic arm</p> <p>6 guard?</p> <p>7 A. No.</p> <p>8 Q. And you don't have to wear a chain metal</p> <p>9 glove?</p> <p>10 A. No.</p> <p>11 Q. During the time that you've been employed at</p> <p>12 the plant, are there any of those items that you</p> <p>13 have been able to wear from home?</p> <p>14 A. No.</p> <p>15 Q. Can you wear your boots from home?</p> <p>16 A. Yeah, we can, but I don't wear mine from</p> <p>17 home.</p> <p>18 Q. But if you wanted to, you could?</p> <p>19 A. Yes.</p> <p>20 Q. And has that been the policy throughout the</p> <p>21 time you've been employed at the plant?</p> <p>22 A. Yes.</p> <p>23 Q. Ma'am, do you normally drive yourself to</p> | <p style="text-align: right;">16</p> <p>1 A. Yes.</p> <p>2 Q. Ma'am, once you arrive in the parking lot</p> <p>3 and you walk into the building, can you tell me</p> <p>4 what you normally do in the course of the day,</p> <p>5 before going out onto the production floor?</p> <p>6 A. I go through the double doors and stop at</p> <p>7 the -- there's a sanitizer for your boots. I stop</p> <p>8 there and mash the button and sanitize my boots.</p> <p>9 Then I go through the double doors. Then I put on</p> <p>10 my hair net, my earplugs, all my PPE. I just put</p> <p>11 on hair nets, earplugs, gloves. After I get all</p> <p>12 that stuff on, then I have to go sanitize all of</p> <p>13 it.</p> <p>14 Q. Okay. When you first walk through the door</p> <p>15 into the building, are you wearing your boots?</p> <p>16 A. No.</p> <p>17 Q. Do you put your boots on before you go onto</p> <p>18 the production floor?</p> <p>19 A. Yes.</p> <p>20 Q. Where do you do that?</p> <p>21 A. In the break room.</p> <p>22 Q. Do you clock in?</p> <p>23 A. Yes.</p> |
| <p style="text-align: right;">15</p> <p>1 work?</p> <p>2 A. Yes.</p> <p>3 Q. When you arrive at the plant, is there any</p> <p>4 security that you have to clear?</p> <p>5 A. No.</p> <p>6 Q. Is there a guard shack on the driveway?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have to stop at security and have</p> <p>9 your car searched?</p> <p>10 A. No.</p> <p>11 Q. You have a sticker or decal for your car; is</p> <p>12 that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And as long as you have that sticker, you</p> <p>15 can drive through?</p> <p>16 A. Yes.</p> <p>17 Q. And once you park in the parking lot, is</p> <p>18 there any other security that you need to go</p> <p>19 through?</p> <p>20 A. No.</p> <p>21 Q. There's no metal detectors or turnstiles?</p> <p>22 A. No.</p> <p>23 Q. You can just walk right into the plant?</p>   | <p style="text-align: right;">17</p> <p>1 Q. Where do you normally clock in?</p> <p>2 A. In the break room.</p> <p>3 Q. Which break room do you go to?</p> <p>4 A. The debone break room.</p> <p>5 Q. Do you have a locker there?</p> <p>6 A. No.</p> <p>7 Q. So when you enter the break room, do you</p> <p>8 normally clock in first?</p> <p>9 A. Yes.</p> <p>10 Q. And then you put on your boots?</p> <p>11 A. Yes.</p> <p>12 Q. What time do you normally arrive at the</p> <p>13 plant?</p> <p>14 A. Seven o'clock.</p> <p>15 Q. So after you arrive at the plant and you</p> <p>16 clock in and put on your boots, what do you do</p> <p>17 next?</p> <p>18 A. I wait for -- wait until 7:25.</p> <p>19 Q. Then what do you do at 7:25?</p> <p>20 A. Then I go into the door to sanitize my</p> <p>21 boots.</p> <p>22 Q. And how do you sanitize your boots?</p> <p>23 A. There's a button up there. You mash the</p>  |

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| <p style="text-align: right;">18</p> <p>1 button for the foam to come out and sanitize the<br/>2 boots.<br/>3 Q. So you walk through the foam?<br/>4 A. Yeah. Turn your feet from side to side.<br/>5 Q. And it puts out some sort of foam on the<br/>6 floor; is that right?<br/>7 A. Yes.<br/>8 Q. And then what do you do next?<br/>9 A. Then I go in the double doors. After I<br/>10 sanitize my boots, I put my hair net on. Then I<br/>11 go through the double doors, put on my earplugs,<br/>12 smock, apron, gloves. And then I go over to the<br/>13 sink and sanitize the gloves and the apron.<br/>14 Q. And when you say you sanitize them, what do<br/>15 you do?<br/>16 A. I wash them with soap and water over there.<br/>17 Q. Okay. And how long does it take you to do<br/>18 that, from the time you start walking through the<br/>19 double doors until the time you get to your<br/>20 position on the line?<br/>21 A. About 10 minutes.<br/>22 Q. And what time does your shift start?<br/>23 A. 7:30.</p> | <p style="text-align: right;">20</p> <p>1 Q. Now, where on the actual debone line does<br/>2 the bone sampler position sit? Is that toward the<br/>3 end of the line?<br/>4 A. It is.<br/>5 Q. Can you describe for me what you do as a<br/>6 bone sampler?<br/>7 A. The meat is running on the conveyor belt.<br/>8 We have to get ten pieces off to put in our pan.<br/>9 We check each piece for a bone and put it back on<br/>10 the belt.<br/>11 Q. So you're kind of a quality control type of<br/>12 position; is that right?<br/>13 A. Yes.<br/>14 Q. You're making sure there's no bones in the<br/>15 meat?<br/>16 A. Yes.<br/>17 Q. So you're not actually sampling bones;<br/>18 you're sampling meat to make sure there are no<br/>19 bones in there?<br/>20 A. Yes.<br/>21 Q. Now, do you get any breaks during the course<br/>22 of your shift?<br/>23 A. Yes.</p>   |
| <p style="text-align: right;">19</p> <p>1 Q. Are you normally late for the start of your<br/>2 shift?<br/>3 A. No.<br/>4 Q. Because you said to me that you wait until<br/>5 7:25 and then you head out to the floor to start<br/>6 doing all those activities. But then you told me<br/>7 it takes ten minutes to do it.<br/>8 A. Yes.<br/>9 Q. So you don't have to be on the line at 7:30?<br/>10 A. Yes.<br/>11 Q. And you normally leave the break room at<br/>12 7:25?<br/>13 A. Yes. Because the sanitation people be<br/>14 standing there. We can't go in.<br/>15 Q. So you can't go in much earlier because they<br/>16 are taking care of the machinery, correct?<br/>17 A. Yes.<br/>18 Q. Now, are you normally at your spot on the<br/>19 line in time for the line to start?<br/>20 A. Yes.<br/>21 Q. You're normally at your spot on the line by<br/>22 7:30?<br/>23 A. Yes.</p>  | <p style="text-align: right;">21</p> <p>1 Q. How many breaks do you get?<br/>2 A. Two.<br/>3 Q. How long are those breaks?<br/>4 A. 30 minutes.<br/>5 Q. Now, how do you know when you are cleared to<br/>6 leave for break or you are allowed to leave for<br/>7 break?<br/>8 A. When the last piece of meat reaches my<br/>9 station.<br/>10 Q. And after that last piece of meat reaches<br/>11 your position, you know that it's okay for you to<br/>12 leave and do whatever you need to do to get ready<br/>13 for break; is that correct?<br/>14 A. Yes.<br/>15 Q. Can you describe for me what you do from<br/>16 that point, after the last piece of meat passes<br/>17 your station to the time you pass through the<br/>18 production doors?<br/>19 A. I don't understand.<br/>20 Q. Yes, ma'am. Can you tell me what you do<br/>21 after that last piece of meat passes your station<br/>22 until the time you go through the production doors<br/>23 into the hallway?</p> |



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| <p style="text-align: right;">22</p> <p>1 A. Okay. We have to clean up our station<br/> 2 before we leave. Then I go over to the sink, take<br/> 3 off all my equipment -- I sanitize it first, and<br/> 4 then I take it all off and hang it up.<br/> 5 Q. What do you have to do to clean up your<br/> 6 station?<br/> 7 A. We have to wash. Wipe the pan out that we<br/> 8 put the product in. We have to wipe that out and<br/> 9 wipe the water and stuff off the station.<br/> 10 Q. Is it kind of like a table? Is that where<br/> 11 you sit?<br/> 12 A. Yeah, it's a table.<br/> 13 Q. And then you said that you would sanitize<br/> 14 your --<br/> 15 A. Equipment.<br/> 16 Q. Which items would you do that for?<br/> 17 A. The gloves and the apron.<br/> 18 Q. And when you say "sanitize," you mean you<br/> 19 wash it with soap and water?<br/> 20 A. Yes.<br/> 21 Q. Just like you were washing your hands?<br/> 22 A. Yes.<br/> 23 Q. And then you would take your items off?</p> | <p style="text-align: right;">24</p> <p>1 Q. What time are your breaks?<br/> 2 A. 10:15 and 1:15.<br/> 3 Q. Before you leave for your second break, do<br/> 4 you do anything different than what you do for<br/> 5 your first break?<br/> 6 A. No.<br/> 7 Q. Basically the same thing?<br/> 8 A. Same.<br/> 9 Q. Is that true for when you return from break<br/> 10 as well?<br/> 11 A. Yes.<br/> 12 Q. Basically the same thing?<br/> 13 A. Yes.<br/> 14 Q. Do you normally take your break in the break<br/> 15 room or outside?<br/> 16 A. Break room.<br/> 17 Q. Once you get into the break room, what do<br/> 18 you do next?<br/> 19 A. I heat up my food that I have or I buy<br/> 20 something out of the machine.<br/> 21 Q. And how do you know when it's time to return<br/> 22 from break to the production floor?<br/> 23 A. We watch the clock. We have to go back at</p>   |
| <p style="text-align: right;">23</p> <p>1 A. Yes.<br/> 2 Q. Are there any items that you can wear off of<br/> 3 the production floor out into the hallway?<br/> 4 A. Yes. I have to sanitize the boots before I<br/> 5 walk out the door.<br/> 6 Q. Okay. And what about your hair net?<br/> 7 A. I can wear it out, but not outside.<br/> 8 Q. Okay. So if you choose to go outside, then<br/> 9 you have to take your hair net off?<br/> 10 A. Yes.<br/> 11 Q. And your earplugs? I guess if you really<br/> 12 wanted to, you could wear them in the break room;<br/> 13 is that correct?<br/> 14 A. Yes.<br/> 15 Q. And how long does it take you from the time<br/> 16 that the last piece of meat passes your station<br/> 17 until the time you walk out through the double<br/> 18 doors?<br/> 19 A. Ten minutes.<br/> 20 Q. Do your breaks normally happen at scheduled<br/> 21 times throughout the day? They happen at the same<br/> 22 time every day?<br/> 23 A. Yes.</p>                 | <p style="text-align: right;">25</p> <p>1 10:45.<br/> 2 Q. Now, ma'am, your position is at the end of<br/> 3 the line, correct?<br/> 4 A. Yes.<br/> 5 Q. In terms of when you are returning from<br/> 6 break, when would you be considered late?<br/> 7 MR. KISER: Object to the form.<br/> 8 Q. Based on your experience working at the<br/> 9 plant, would you be considered late if the first<br/> 10 piece of chicken is put down at the cone line and<br/> 11 you're not at your position, or would you be<br/> 12 considered late when the first piece of meat<br/> 13 reaches your station and you are not on the line?<br/> 14 A. When the first piece of meat reaches my<br/> 15 station.<br/> 16 Q. So there's a little bit of time between time<br/> 17 the meat is first placed on the line at the<br/> 18 beginning on the cone and the time it reaches your<br/> 19 station; is that correct?<br/> 20 MR. KISER: Object to the form.<br/> 21 Q. There's sort of like a conveyor system that<br/> 22 takes the birds from the beginning of the debone<br/> 23 line back to your position; is that correct?</p> |



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| <p style="text-align: right;">26</p> <p>1 A. Yes.</p> <p>2 Q. And at the beginning of the line, somebody</p> <p>3 puts the bird on these cones that move back</p> <p>4 towards the back of the line; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. And so there's some time before the meat</p> <p>7 from that bird reaches the end of the line where</p> <p>8 you have your station; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Can you describe for me what you'll do when</p> <p>11 you leave the break room and you're returning to</p> <p>12 your position on the line?</p> <p>13 A. I leave the break room and I come to the</p> <p>14 double doors and I put my hair net on. Then I</p> <p>15 come in; I stop, sanitize my boots, and then I go</p> <p>16 in, put my earplugs in, and I put on all my</p> <p>17 protective equipment. Then I wash them down, wash</p> <p>18 everything down. Then I go to the line.</p> <p>19 Q. And approximately how long does it take you</p> <p>20 from the time you hit the production doors until</p> <p>21 the time you get to your spot on the line?</p> <p>22 A. About ten minutes.</p> <p>23 Q. What time do you normally leave the break</p> | <p style="text-align: right;">28</p> <p>1 A. When the last piece of meat reaches my</p> <p>2 station.</p> <p>3 Q. So they stop production in the debone area</p> <p>4 for a period of time at the end of your shift and</p> <p>5 before the second shift starts up; is that</p> <p>6 correct?</p> <p>7 A. I don't understand, sir.</p> <p>8 Q. The machinery -- there's no more chickens</p> <p>9 coming in the machine; is that correct?</p> <p>10 A. Talking about when I'm getting ready to</p> <p>11 leave?</p> <p>12 Q. Yes, ma'am.</p> <p>13 A. Yes.</p> <p>14 Q. Can you describe for me what you do at the</p> <p>15 end of the shift, after the last piece of meat</p> <p>16 passes your station?</p> <p>17 A. I clean up my station. Then I go over there</p> <p>18 and take -- go over and sanitize my equipment.</p> <p>19 Then I take it off, hang it up and fold it up.</p> <p>20 Then I go to the double doors, sanitize my boots.</p> <p>21 Then I throw the smock into a basket on the</p> <p>22 outside of the door.</p> <p>23 Q. Then what do you do after that?</p>  |
| <p style="text-align: right;">27</p> <p>1 room to head back to the line at your first break?</p> <p>2 A. About 10:35.</p> <p>3 Q. Now, when you leave the break room, do you</p> <p>4 go to the bathroom, or do you normally head</p> <p>5 straight to the production doors?</p> <p>6 A. I just go to the production doors.</p> <p>7 Q. If, during the course of your shift, you</p> <p>8 need to go to the bathroom, do you have to clock</p> <p>9 out?</p> <p>10 A. No.</p> <p>11 Q. You just ask for a bathroom break?</p> <p>12 A. Yes.</p> <p>13 Q. When you return from your second break, do</p> <p>14 you do basically the same thing as you do when you</p> <p>15 return from your first break?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Now, ma'am, I believe you indicated</p> <p>18 that you have a scheduled end time for your shift</p> <p>19 of 4:30; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. How do you know when you are released and</p> <p>22 you're able to leave the line at the end of your</p> <p>23 shift?</p>   | <p style="text-align: right;">29</p> <p>1 A. I go and clock out.</p> <p>2 Q. Do you take your boots off after that?</p> <p>3 A. Yes.</p> <p>4 Q. Approximately how long does it take you from</p> <p>5 the time the last piece of meat reaches you on the</p> <p>6 line to the time you leave the production floor?</p> <p>7 A. How long it takes me?</p> <p>8 Q. Yes, ma'am. From at the end of your shift,</p> <p>9 at the time that last piece of meat passes your</p> <p>10 station until the time you leave the production</p> <p>11 floor?</p> <p>12 A. About ten minutes.</p> <p>13 Q. Now, ma'am, have you ever actually timed</p> <p>14 yourself on the amount of time it takes you at the</p> <p>15 end of your shift from the time you leave your</p> <p>16 station until the time you exit the production</p> <p>17 floor? Have you actually timed it?</p> <p>18 A. No.</p> <p>19 Q. So you're estimating that it takes about ten</p> <p>20 minutes; is that correct?</p> <p>21 A. It's about ten minutes.</p> <p>22 Q. Now, do you have any understanding as to how</p> <p>23 the actual hours for which you are paid are</p> |

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| <p style="text-align: right;">30</p> <p>1 calculated?</p> <p>2 A. How they are calculated?</p> <p>3 Q. Yes, ma'am. Do you want me to repeat the</p> <p>4 question?</p> <p>5 A. Yes.</p> <p>6 Q. You get paid on a weekly basis, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And when you get your paycheck, there's a</p> <p>9 certain number of hours for which you are paid,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And do you have any idea how the number of</p> <p>13 hours for which you are paid, how that number is</p> <p>14 calculated? how the company comes up with that</p> <p>15 number?</p> <p>16 A. No, I don't know.</p> <p>17 Q. Have you ever had an instance where you</p> <p>18 received your paycheck and you looked at it and</p> <p>19 you didn't feel that the number of hours paid were</p> <p>20 correct?</p> <p>21 A. No.</p> <p>22 Q. Have you ever had any instance where you got</p> <p>23 your paycheck and you went and complained to</p> | <p style="text-align: right;">32</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 BARBOUR COUNTY</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription, and that the foregoing represents</p> <p>11 a true and correct transcript of the testimony</p> <p>12 given by said witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor kin to the parties to the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18</p> <p>19 CYNTHIA M. NOAKES, Commissioner</p> <p>20 Certified Court Reporter,</p> <p>21 ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23 Commission Expires 07/08/2009</p> |
| <p style="text-align: right;">31</p> <p>1 either your supervisor or someone in payroll or</p> <p>2 someone in management that the paycheck was not</p> <p>3 paying you for the hours worked?</p> <p>4 A. No.</p> <p>5 Q. I think those are the only questions I have</p> <p>6 for you, ma'am. Thank you.</p> <p>7 BY MR. KISER:</p> <p>8 Q. Ms. Lampley, what would happen to you if you</p> <p>9 weren't back on the line when coming back from</p> <p>10 break? I guess you said your first one was 10:45?</p> <p>11 A. Yes.</p> <p>12 Q. What would happen if you weren't back on the</p> <p>13 line at 10:45?</p> <p>14 A. I would get written up.</p> <p>15 Q. No further questions.</p> <p>16 MR. GOULD: That's fine.</p> <p>17</p> <p>18 (The deposition was concluded.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |  |

**TAB 32**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

BETTY ANN BURKS, et al.,  
Plaintiffs,

vs. CIVIL ACTION 2:06-cv-01081-MEF-DRB

EQUITY GROUP EUFAULA DIVISION, LLC,  
Defendant.

\* \* \* \* \*

DEPOSITION OF FELICIA LASETER,  
taken pursuant to notice and  
stipulation on behalf of the Defendant,  
at Williams, Pothoff, Williams & Smith,  
125 South Orange Avenue, Eufaula,  
Alabama, before Bridgette Mitchell,  
Shorthand Reporter and Notary Public in  
and for the State of Alabama at Large,  
on May 21, 2008, commencing at  
2:00 p.m.

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| <p>2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3</p> <p>4 FOR THE PLAINTIFFS:</p> <p>5 Carl E. Underwood, III, Esquire</p> <p>6 COCHRAN, CHERRY, GIVENS &amp; SMITH</p> <p>7 163 W. Main Street</p> <p>8 Dothan, Alabama 36301</p> <p>9</p> <p>10</p> <p>11 FOR THE DEFENDANT:</p> <p>12 Gary D. Fry, Esquire</p> <p>13 PELINO &amp; LENTZ</p> <p>14 One Liberty Place</p> <p>15 Thirty-second Floor</p> <p>16 Philadelphia, Pennsylvania 19103</p> <p>17</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 Linda Jacobs</p> <p>21 Gloria Gullette</p> <p>22</p> <p>23</p>   | <p>4</p> <p>1 It is further stipulated and</p> <p>2 agreed by and between counsel</p> <p>3 representing the parties in this case</p> <p>4 that the filing of the deposition of</p> <p>5 FELICIA LASETER is hereby waived and</p> <p>6 that said deposition may be introduced</p> <p>7 at the trial of this case or used in</p> <p>8 any other manner by either party hereto</p> <p>9 provided for by the Statute, regardless</p> <p>10 of the waiving of the filing of same.</p> <p>11 It is further stipulated and</p> <p>12 agreed by and between the parties</p> <p>13 hereto and the witness that the</p> <p>14 signature of the witness to this</p> <p>15 deposition is hereby waived.</p> <p>16</p> <p>17 INDEX</p> <p>18</p> <p>19 EXAMINATION Page</p> <p>20 By Mr. Fry..... 5</p> <p>21 By Mr. Underwood..... 50</p> <p>22 By Mr. Fry..... 52</p> <p>23</p> |
| <p>3</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and</p> <p>3 agreed by and between counsel</p> <p>4 representing the parties that the</p> <p>5 deposition of FELICIA LASETER is taken</p> <p>6 pursuant to notice and stipulation on</p> <p>7 behalf of the Defendant; that all</p> <p>8 formalities with respect to procedural</p> <p>9 requirements are waived; that said</p> <p>10 deposition may be taken before</p> <p>11 Bridgette Mitchell, Shorthand Reporter</p> <p>12 and Notary Public in and for the State</p> <p>13 of Alabama at Large, without the</p> <p>14 formality of a commission; that</p> <p>15 objections to questions, other than</p> <p>16 objections as to the form of the</p> <p>17 questions, need not be made at this</p> <p>18 time, but may be reserved for a ruling</p> <p>19 at such time as the deposition may be</p> <p>20 offered in evidence or used for any</p> <p>21 other purpose as provided for by the</p> <p>22 Civil Rules of Procedure for the State</p> <p>23 of Alabama.</p> | <p>5</p> <p>1 FELICIA LASETER, having first</p> <p>2 been duly sworn or affirmed to speak</p> <p>3 the truth, the whole truth, and nothing</p> <p>4 but the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. Ms. Laseter, you sat through the</p> <p>8 deposition of the prior witness?</p> <p>9 A. Yes.</p> <p>10 Q. And did you hear the instructions that</p> <p>11 I gave her?</p> <p>12 A. Yes.</p> <p>13 Q. And did you understand them?</p> <p>14 A. Yes.</p> <p>15 Q. And do you understand that those same</p> <p>16 instructions apply to you?</p> <p>17 A. Yes.</p> <p>18 Q. What is your date of birth?</p> <p>19 A. 1/27/1976.</p> <p>20 Q. And where do you live?</p> <p>21 A. 915 Stewart Street, Apartment F2, Pecan</p> <p>22 Lane.</p> <p>23 Q. What town?</p>   |

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| <p>6</p> <p>1 A. Eufaula, Alabama.</p> <p>2 Q. And are you currently employed?</p> <p>3 A. Yes. Keystone.</p> <p>4 Q. How long have you worked for --</p> <p>5 A. Eight years.</p> <p>6 MR. UNDERWOOD: Hold on just a</p> <p>7 minute. Slow down a little bit and let</p> <p>8 him finish. You're jumping over his</p> <p>9 question and it makes it hard for her</p> <p>10 to take it down.</p> <p>11 THE WITNESS: Okay.</p> <p>12 MR. UNDERWOOD: Let him get a</p> <p>13 clean-cut finish with his sentence and</p> <p>14 then you answer it. Okay? It's okay.</p> <p>15 A lot of people do that.</p> <p>16 Q. (By Mr. Fry) So you've worked at the</p> <p>17 plant for eight years?</p> <p>18 A. Yes.</p> <p>19 Q. So you started there about 2000?</p> <p>20 A. Uh-huh.</p> <p>21 Q. And when you started, the plant was</p> <p>22 operated by CP?</p> <p>23 A. Yes.</p>            | <p>8</p> <p>1 something like that.</p> <p>2 Q. Was CP still running the place?</p> <p>3 A. Yes.</p> <p>4 Q. What was your next job?</p> <p>5 A. I got back on the line, started</p> <p>6 deboning again.</p> <p>7 Q. Yeah.</p> <p>8 A. The next job after that, I went to</p> <p>9 evis.</p> <p>10 Q. When did you go to evis?</p> <p>11 A. I can't remember.</p> <p>12 Q. Did CP still own the place?</p> <p>13 A. Yes.</p> <p>14 Q. What was the next job you had?</p> <p>15 A. Over in salvage.</p> <p>16 Q. Salvage is in the evisceration</p> <p>17 department?</p> <p>18 A. Yes, it is. Evis and salvage, they're</p> <p>19 together, but it's different -- under</p> <p>20 different departments, different codes.</p> <p>21 Q. And was CP still running the place?</p> <p>22 A. Yeah. But Keystone had -- they was</p> <p>23 taking over then.</p>   |
| <p>7</p> <p>1 Q. What was the first job you had in the</p> <p>2 plant?</p> <p>3 A. Working on the line.</p> <p>4 Q. What line?</p> <p>5 A. In debone.</p> <p>6 Q. And how long did you work in the debone</p> <p>7 line for CP?</p> <p>8 A. I don't remember. But after that, I</p> <p>9 was a line leader.</p> <p>10 Q. Do you recall when you became a line</p> <p>11 leader?</p> <p>12 A. Probably about -- I can't say.</p> <p>13 Q. Was it while CP operated the plant or</p> <p>14 was it after Keystone took over?</p> <p>15 A. Yes. CP.</p> <p>16 Q. And what was the next job you held?</p> <p>17 A. I got off the line from being a line</p> <p>18 leader and went back to the line.</p> <p>19 Q. The debone line?</p> <p>20 A. Yes.</p> <p>21 Q. And when did that happen?</p> <p>22 A. About seven or eight months later --</p> <p>23 seven or eight months later, six,</p> | <p>9</p> <p>1 Q. So that would have been around 2004?</p> <p>2 A. Yes.</p> <p>3 Q. Since Keystone has taken over, what</p> <p>4 jobs have you had?</p> <p>5 A. Evis -- evisceration, a trimmer on the</p> <p>6 line, and then back to salvage, because</p> <p>7 they rotate me around since I know how</p> <p>8 to do all the jobs in there just about.</p> <p>9 Q. What's your current job?</p> <p>10 A. Really, I mean, evis, but wherever they</p> <p>11 need me when they be short-handed, by</p> <p>12 me knowing how to run the jobs.</p> <p>13 Q. So you work all -- a lot of jobs in the</p> <p>14 evisceration department?</p> <p>15 A. Yes.</p> <p>16 Q. And you've done that since Keystone</p> <p>17 took over?</p> <p>18 A. Yes.</p> <p>19 Q. What shift do you currently work?</p> <p>20 A. Six to three, first shift.</p> <p>21 Q. How long have you worked that shift?</p> <p>22 A. About three years now, three going on</p> <p>23 four, like that.</p> |

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| <p style="text-align: right;">10</p> <p>1 Q. Who's your supervisor currently?</p> <p>2 A. Well, you know, James, I guess.</p> <p>3 Q. James who?</p> <p>4 A. James McElroy.</p> <p>5 Q. Have we gone through all the jobs that</p> <p>6 you've had in that plant that you can</p> <p>7 remember?</p> <p>8 A. Yes.</p> <p>9 Q. But you're currently not a line leader?</p> <p>10 A. No.</p> <p>11 Q. How did you learn about this lawsuit?</p> <p>12 A. I heard other people talking about it</p> <p>13 and seen it on TV.</p> <p>14 Q. And what did you hear about people</p> <p>15 talking about it? What did they --</p> <p>16 A. Underpay in wages and --</p> <p>17 Q. Pardon?</p> <p>18 A. Underpay in wages and you're not</p> <p>19 getting enough time on your breaks.</p> <p>20 Q. So you believe you have a claim for</p> <p>21 underpaid wages?</p> <p>22 A. Yes.</p> <p>23 Q. And --</p>  | <p style="text-align: right;">12</p> <p>1 Q. You've been a steward for a year and a</p> <p>2 half?</p> <p>3 A. Yes.</p> <p>4 Q. How long have you been in the union</p> <p>5 altogether?</p> <p>6 A. It was some years, because I had got</p> <p>7 out and then I had got right back in,</p> <p>8 so I really can't say.</p> <p>9 Q. Have you been a steward before?</p> <p>10 A. No.</p> <p>11 Q. So this last year and a half is the</p> <p>12 only time you've been a steward?</p> <p>13 A. Yes.</p> <p>14 Q. During any time that you have been a</p> <p>15 member of the union -- and that's the</p> <p>16 retail, wholesale and department store</p> <p>17 union?</p> <p>18 A. The union with the company?</p> <p>19 Q. Yeah.</p> <p>20 A. Yes.</p> <p>21 Q. During the entire time that you have</p> <p>22 been in the union, have you attended</p> <p>23 union meetings?</p>  |
| <p style="text-align: right;">11</p> <p>1 A. I mean, well, let me start over. Go</p> <p>2 ahead. You finish first. I'm sorry.</p> <p>3 Q. For what work do you believe you</p> <p>4 weren't paid?</p> <p>5 A. Breaks. You don't get enough time on</p> <p>6 breaks.</p> <p>7 Q. Your breaks are thirty minutes?</p> <p>8 A. Yes. Supposed to be.</p> <p>9 Q. And how long, in your experience, have</p> <p>10 your breaks been?</p> <p>11 A. Probably about twenty-five minutes,</p> <p>12 twenty sometimes.</p> <p>13 Q. Besides breaks, do you have any other</p> <p>14 claims for unpaid time?</p> <p>15 A. No.</p> <p>16 Q. Do you belong to the union?</p> <p>17 A. I'm a union rep.</p> <p>18 Q. How long have you been a union rep?</p> <p>19 A. I became a union rep about a year and a</p> <p>20 half now, I think. It's going to be,</p> <p>21 like, a year and a half.</p> <p>22 Q. Year and a half. So you're a steward?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">13</p> <p>1 A. Yes.</p> <p>2 Q. Approximately how many?</p> <p>3 A. Two to three.</p> <p>4 Q. Have you ever discussed or have you</p> <p>5 ever heard discussions in the union</p> <p>6 meetings the claims that are relevant</p> <p>7 to this lawsuit, about wages and hours?</p> <p>8 A. No.</p> <p>9 Q. Have you ever been on a union</p> <p>10 negotiating committee?</p> <p>11 A. No.</p> <p>12 Q. Has any of the union rank and file ever</p> <p>13 come to you in your position as a</p> <p>14 steward and complained about their</p> <p>15 pay --</p> <p>16 A. Yes.</p> <p>17 Q. -- about the kinds of claims that you</p> <p>18 think you have here for unpaid break</p> <p>19 time?</p> <p>20 A. No, not this right here. Wait a</p> <p>21 minute. Repeat that again, please.</p> <p>22 Q. Okay. Since the time you've been a</p> <p>23 union steward, have you heard claims or</p> |



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| <p style="text-align: right;">14</p> <p>1 complaints from other union members</p> <p>2 that they haven't been paid properly?</p> <p>3 A. Yes. As check-wise?</p> <p>4 Q. Pardon?</p> <p>5 A. As their paycheck-wise; right?</p> <p>6 Q. Yes, ma'am.</p> <p>7 A. Yes. About their raises wasn't on</p> <p>8 their check.</p> <p>9 Q. And have you gotten those resolved?</p> <p>10 A. Yes.</p> <p>11 Q. Have you ever had any problems with</p> <p>12 resolving those problems?</p> <p>13 A. It took some weeks to get it cleared</p> <p>14 up, but they got it straight.</p> <p>15 Q. But you've never been contacted by</p> <p>16 anybody in the plant concerning the</p> <p>17 claims that you're bringing in this</p> <p>18 lawsuit?</p> <p>19 A. No.</p> <p>20 Q. And you've never discussed these claims</p> <p>21 in any union meetings?</p> <p>22 A. No.</p> <p>23 Q. Have you discussed them with any other</p> | <p style="text-align: right;">16</p> <p>1 Q. Okay. Can you identify for me the</p> <p>2 items of equipment, outer garments,</p> <p>3 that you wear when you --</p> <p>4 A. You have --</p> <p>5 Q. -- work -- you have to wait until I</p> <p>6 finish my question.</p> <p>7 MR. UNDERWOOD: Wait until he's</p> <p>8 finished. That's fine.</p> <p>9 Q. Identify for me the items of clothing</p> <p>10 and outer garments that you wear when</p> <p>11 you're working in the evisceration</p> <p>12 department.</p> <p>13 A. Yes.</p> <p>14 Q. What are they?</p> <p>15 A. You have to wear your blue gloves, your</p> <p>16 cotton liners; you have to wear your</p> <p>17 arm guard; you have to wear your apron,</p> <p>18 your smock, your hair net, and your</p> <p>19 earplugs. You already have your</p> <p>20 earplugs on when you come in the door.</p> <p>21 Q. You have to slow down. She can't get</p> <p>22 it down.</p> <p>23 MR. UNDERWOOD: She can't get</p>   |
| <p style="text-align: right;">15</p> <p>1 union reps?</p> <p>2 A. No.</p> <p>3 Q. Did you review any papers before you</p> <p>4 came here today?</p> <p>5 A. No.</p> <p>6 Q. Did you talk with anybody besides your</p> <p>7 lawyers?</p> <p>8 A. No. I only talked to Jackie Davis, the</p> <p>9 chief of the union, and asked was we</p> <p>10 going to get a point for coming. That</p> <p>11 was it.</p> <p>12 Q. Did you ever talk with Jackie Davis</p> <p>13 about the claims raised in this</p> <p>14 lawsuit?</p> <p>15 A. No.</p> <p>16 Q. Were you aware that Jackie Davis</p> <p>17 brought similar claims when she was</p> <p>18 working for CP?</p> <p>19 A. She probably did, but I can't recall</p> <p>20 it.</p> <p>21 Q. You don't recall talking with her about</p> <p>22 that?</p> <p>23 A. Not when CP or whatever . . .</p>   | <p style="text-align: right;">17</p> <p>1 it all. When you say it so fast, it's</p> <p>2 going to be hard for her to get it</p> <p>3 down.</p> <p>4 Q. Start again. Let's do it slowly.</p> <p>5 A. Okay. You have to have -- when you</p> <p>6 walk in the doors, your earplugs and</p> <p>7 hair nets already be on. You have to</p> <p>8 have your blue gloves, your cotton</p> <p>9 liners, your arm guard, your smock, and</p> <p>10 your apron on when you walk through the</p> <p>11 doors. And you also have to have on</p> <p>12 your boots. You're going to have them</p> <p>13 on regardless anyway.</p> <p>14 Q. When you say you have to have them on</p> <p>15 when you walk through the doors, what</p> <p>16 doors are you talking about?</p> <p>17 A. You're going to have your boots on when</p> <p>18 you come through the double doors.</p> <p>19 You're not going to go in there</p> <p>20 barefooted.</p> <p>21 Q. Right. But you -- I thought I heard</p> <p>22 you say that you had to have these</p> <p>23 other things on when you came through</p> |



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| <p>18</p> <p>1 the doors?</p> <p>2 A. Yeah. You have to have your hair nets</p> <p>3 when you're first walking in there.</p> <p>4 You're going to have your earplugs on</p> <p>5 and your hair nets because you can't go</p> <p>6 in there without your hair net on. If</p> <p>7 you do, USDA is going to write you up.</p> <p>8 Q. But you don't have your smock on yet?</p> <p>9 A. No.</p> <p>10 Q. And then you don't have any of those</p> <p>11 other items on yet, do you?</p> <p>12 A. No. But you're going to have your</p> <p>13 smock on before you get to the</p> <p>14 processing down there where the meat</p> <p>15 and stuff is processed in there because</p> <p>16 that's your -- you're going to have an</p> <p>17 apron on.</p> <p>18 Q. Okay. So we have the gloves and the</p> <p>19 liners, the arm guards, your earplugs,</p> <p>20 the smock, and the apron. Anything</p> <p>21 else?</p> <p>22 A. Repeat that again what you said.</p> <p>23 Q. You identified for me the gloves and</p> | <p>20</p> <p>1 to go and get it.</p> <p>2 Q. Where do you have to go to get it?</p> <p>3 A. Over there where the line leader keep</p> <p>4 all the equipment at and everybody have</p> <p>5 to get their own chain glove.</p> <p>6 Q. You get it from the line leader?</p> <p>7 A. Yes.</p> <p>8 Q. What about plastic sleeves, do you wear</p> <p>9 them?</p> <p>10 A. No, I don't wear plastic sleeves.</p> <p>11 Q. Do some people wear plastic sleeves?</p> <p>12 A. Some people wear sleeves and some</p> <p>13 don't.</p> <p>14 Q. So not all of these items are required;</p> <p>15 is that correct?</p> <p>16 A. Depending on where you work at, it is.</p> <p>17 Q. Are plastic sleeves required anywhere,</p> <p>18 to your knowledge?</p> <p>19 A. I don't know. Not for me, it's not,</p> <p>20 because I don't have to wear them.</p> <p>21 Q. So is it fair to say that employees in</p> <p>22 the evisceration department wear</p> <p>23 different items of gear and clothing</p> |
| <p>19</p> <p>1 the liners?</p> <p>2 A. Yes.</p> <p>3 Q. The arm guards?</p> <p>4 A. Yes.</p> <p>5 Q. The earplugs?</p> <p>6 A. Yes.</p> <p>7 Q. The hair net?</p> <p>8 A. Yes.</p> <p>9 Q. The boots?</p> <p>10 A. Yes.</p> <p>11 Q. The smock?</p> <p>12 A. Yes.</p> <p>13 Q. And the apron?</p> <p>14 A. Yes.</p> <p>15 Q. Is there anything else that you wear</p> <p>16 when you work in the evisceration</p> <p>17 department?</p> <p>18 A. You wear your chain glove when you get</p> <p>19 down there. You get it before you</p> <p>20 start cutting.</p> <p>21 Q. But that's already waiting for you on</p> <p>22 the line?</p> <p>23 A. No, it's not waiting for you. You have</p>  | <p>21</p> <p>1 depending on the particular job they</p> <p>2 have?</p> <p>3 A. Yeah, because if you work a department,</p> <p>4 if it's cold in there, you're going to</p> <p>5 have to put on extra clothes to keep</p> <p>6 warm.</p> <p>7 Q. I'm just talking about the people</p> <p>8 working in the evisceration production</p> <p>9 floor. Did people in the production</p> <p>10 floor wear different items of clothing</p> <p>11 and gear depending on their jobs?</p> <p>12 MR. UNDERWOOD: If you know.</p> <p>13 A. I don't know.</p> <p>14 Q. You could wear plastic sleeves if you</p> <p>15 wanted to; correct?</p> <p>16 A. Yes.</p> <p>17 Q. To keep the water off --</p> <p>18 A. Yes.</p> <p>19 Q. So that's optional for you?</p> <p>20 A. Yes.</p> <p>21 Q. Is the other stuff all required?</p> <p>22 A. Yes.</p> <p>23 Q. Which of these items are issued to you</p>   |

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| <p style="text-align: right;">22</p> <p>1 by the company?</p> <p>2 A. You mean what do they give us?</p> <p>3 Q. Yes, ma'am.</p> <p>4 A. Like, as free?</p> <p>5 Q. What do they provide to you to wear?</p> <p>6 A. They provide the stuff that you have to</p> <p>7 get out of the supply -- your smock,</p> <p>8 your apron, your sleeves, and your arm</p> <p>9 guard, if you forget it, and your</p> <p>10 gloves and your cotton liners.</p> <p>11 Q. If you use a knife -- or if you don't</p> <p>12 use a knife, are you required to use</p> <p>13 arm guards?</p> <p>14 A. If you don't use a knife, you don't</p> <p>15 have to wear an arm guard.</p> <p>16 Q. And are there some jobs that you have</p> <p>17 had where you did not use a knife?</p> <p>18 A. Yes.</p> <p>19 Q. And you didn't wear arm guards for</p> <p>20 those jobs?</p> <p>21 A. Yes.</p> <p>22 Q. And I take it, from what I've heard,</p> <p>23 that you pick up a smock, a hair net,</p> | <p style="text-align: right;">24</p> <p>1 A. Yes.</p> <p>2 Q. Do some people wear boots that they</p> <p>3 provide for themselves?</p> <p>4 A. I don't know. I can't say.</p> <p>5 Q. When do you put on your smock before</p> <p>6 the start of your shift?</p> <p>7 A. Say what, now?</p> <p>8 Q. When do you put on your smock at the</p> <p>9 start of your shift?</p> <p>10 A. When do I put it on?</p> <p>11 Q. Yes.</p> <p>12 A. When I come in evis.</p> <p>13 Q. When you enter the production floor?</p> <p>14 A. That smock has to be on before you get</p> <p>15 to the production floor.</p> <p>16 Q. So you're permitted to put it on</p> <p>17 outside the production floor?</p> <p>18 A. Yes.</p> <p>19 Q. And where do you put it on?</p> <p>20 A. It's a rack that everybody hang their</p> <p>21 clothes up and you get dressed right</p> <p>22 there.</p> <p>23 Q. And where is the rack?</p>  |
| <p style="text-align: right;">23</p> <p>1 and gloves on a daily basis?</p> <p>2 A. Well, I pick up a smock three times a</p> <p>3 day because I don't like to get dirty</p> <p>4 and nasty.</p> <p>5 Q. But at least on a daily basis --</p> <p>6 A. Yes.</p> <p>7 Q. -- you can pick up a smock; correct?</p> <p>8 A. Yes.</p> <p>9 Q. You can request a smock any time during</p> <p>10 the day?</p> <p>11 A. Yes.</p> <p>12 Q. And you pick these items up at the</p> <p>13 supply desk?</p> <p>14 A. Yes.</p> <p>15 Q. Do you wear anything from home that's</p> <p>16 required on the line?</p> <p>17 A. No.</p> <p>18 Q. What about your boots?</p> <p>19 A. Well, I change shoes sometimes and</p> <p>20 sometimes I wear them to work and</p> <p>21 sometimes I don't.</p> <p>22 Q. And do you wear boots that are provided</p> <p>23 to you by the company?</p>   | <p style="text-align: right;">25</p> <p>1 A. When you first walk in the door right</p> <p>2 there on the left-hand side.</p> <p>3 Q. So it's on the production floor, isn't</p> <p>4 it?</p> <p>5 A. Yeah.</p> <p>6 Q. So you put your smock on in the</p> <p>7 production floor?</p> <p>8 A. No. The production floor is where the</p> <p>9 meat come at; right? I don't put my</p> <p>10 smock on there, because you'll get</p> <p>11 wrote up if you're not dressed when you</p> <p>12 come into the double doors. You have</p> <p>13 to put your smock on when you're</p> <p>14 standing right there where everybody</p> <p>15 gets dressed at. You can't put -- you</p> <p>16 don't come in the plant without a</p> <p>17 smock; you're going to get wrote up for</p> <p>18 it. USDA catch it, you can get in</p> <p>19 trouble for it and get wrote up.</p> <p>20 Q. You put your smock on in the same room</p> <p>21 that you do your work, don't you?</p> <p>22 A. Put my smock on in the same room where</p> <p>23 I do my work at? Yeah. I mean,</p> |

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| <p style="text-align: right;">26</p> <p>1 it's -- where you work at is around</p> <p>2 you, but not where you're, like,</p> <p>3 cutting up in the area where you're</p> <p>4 working at, no, I don't.</p> <p>5 Q. You're not allowed to wear your smock</p> <p>6 out of the evisceration room, are you?</p> <p>7 A. No.</p> <p>8 Q. You have to put it on in the</p> <p>9 evisceration room, don't you?</p> <p>10 A. Yes.</p> <p>11 Q. And you have to put the plastic apron</p> <p>12 on in the evisceration --</p> <p>13 A. Right.</p> <p>14 Q. -- room, don't you? And the plastic</p> <p>15 sleeves, if you wear them, you put them</p> <p>16 on --</p> <p>17 A. Yes.</p> <p>18 Q. -- in the evisceration room, don't you?</p> <p>19 You have to wait until I'm done. Okay?</p> <p>20 We'll get done a lot quicker. You have</p> <p>21 to put on your plastic arm guards in</p> <p>22 the evisceration room; correct?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">28</p> <p>1 Q. Or are they already waiting for you at</p> <p>2 your workstation?</p> <p>3 A. It depends. If you're rushing, it's</p> <p>4 not going to be there; then sometimes</p> <p>5 it will and sometimes it won't.</p> <p>6 Q. And the mesh gloves, where do you get</p> <p>7 those, again?</p> <p>8 A. Say what, now?</p> <p>9 Q. The mesh gloves.</p> <p>10 A. The mesh gloves?</p> <p>11 Q. Do you wear a mesh glove?</p> <p>12 A. A chain glove.</p> <p>13 Q. A chain glove. I'm sorry. Chain</p> <p>14 gloves. Do you wear those for every</p> <p>15 job that you have done in evis?</p> <p>16 A. Yes.</p> <p>17 Q. Do you use any other tools or</p> <p>18 equipment?</p> <p>19 A. Yes.</p> <p>20 Q. What else?</p> <p>21 A. Oh, no. I'm sorry. Just knives and</p> <p>22 scissors.</p> <p>23 Q. And for the last three or four years,</p>  |
| <p style="text-align: right;">27</p> <p>1 Q. You put on your cotton gloves and the</p> <p>2 rubber gloves in the evisceration room?</p> <p>3 A. Yes.</p> <p>4 Q. You wear -- you can put your boots on</p> <p>5 before you get there; right?</p> <p>6 A. Yes.</p> <p>7 Q. And you put your hair net on before you</p> <p>8 get there; right?</p> <p>9 A. Yes.</p> <p>10 Q. Where do you put your hair net on?</p> <p>11 A. I put my hair net on in the break room.</p> <p>12 Q. And where do you put your earplugs on?</p> <p>13 A. I put them on first before I get --</p> <p>14 well, in the break room also with my</p> <p>15 hair net.</p> <p>16 Q. Now, you use a knife for some of the</p> <p>17 positions you work in evisceration?</p> <p>18 A. Yes.</p> <p>19 Q. Do you use scissors?</p> <p>20 A. Yes.</p> <p>21 Q. And you obtain these items from the</p> <p>22 line leader?</p> <p>23 A. Yes.</p>                                   | <p style="text-align: right;">29</p> <p>1 since Equity has taken over, your shift</p> <p>2 starts at 6 a.m.; is that correct?</p> <p>3 A. It starts at six. You have to be there</p> <p>4 five minutes till on the floor.</p> <p>5 Q. My question is, it starts at 6 a.m. --</p> <p>6 A. Yes.</p> <p>7 Q. -- in the morning?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And you are required to be at your</p> <p>10 position on the production floor at</p> <p>11 6 a.m.?</p> <p>12 A. Five minutes till.</p> <p>13 Q. Five minutes before?</p> <p>14 A. Uh-huh.</p> <p>15 Q. So where are you supposed to be five</p> <p>16 minutes before, at your line position?</p> <p>17 A. At your spot on the floor.</p> <p>18 Q. Whether there are birds there or not?</p> <p>19 A. Yes.</p> <p>20 Q. And who told you that?</p> <p>21 A. The supervisor said it.</p> <p>22 Q. That's Mr. McElroy?</p> <p>23 A. Yes. But we've done had so many</p> |

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| <p style="text-align: right;">30</p> <p>1 supervisors, I don't know which one's</p> <p>2 which, or whatever. I don't know which</p> <p>3 one. I guess it's James or either Neal</p> <p>4 or Charles. I don't know.</p> <p>5 Q. And your shift ends at 3 p.m.?</p> <p>6 A. Yes, supposed to.</p> <p>7 Q. Sometimes you work overtime?</p> <p>8 A. Yeah. They got stuff you got to --</p> <p>9 yes.</p> <p>10 Q. And you told me you get two thirty-</p> <p>11 minute breaks, or they're supposed to</p> <p>12 be thirty minutes?</p> <p>13 A. Supposed to be.</p> <p>14 Q. And where do you take your break?</p> <p>15 A. In debone break room.</p> <p>16 Q. And do you have your choice of taking</p> <p>17 it in the debone break room or the evis</p> <p>18 break room?</p> <p>19 A. Yes.</p> <p>20 Q. How do you know it's time to go on your</p> <p>21 break?</p> <p>22 A. She'll say "break."</p> <p>23 Q. Pardon?</p>  | <p style="text-align: right;">32</p> <p>1 Q. Your line leader. But if you're on a</p> <p>2 line, you only go to break -- am I</p> <p>3 correct? -- when the last bird passes</p> <p>4 you?</p> <p>5 A. Right.</p> <p>6 Q. So people farther on down the line go</p> <p>7 to break before you?</p> <p>8 A. Yes.</p> <p>9 Q. And when you come back from break, do</p> <p>10 some people have to be there before</p> <p>11 others because the birds get there</p> <p>12 first?</p> <p>13 A. It depends on how many birds are there.</p> <p>14 Q. Does that happen sometimes?</p> <p>15 A. Yes.</p> <p>16 Q. What time do you usually arrive at the</p> <p>17 plant in the morning?</p> <p>18 A. Different times.</p> <p>19 Q. What do you mean by "different times"?</p> <p>20 A. Sometimes I'll be early and sometimes I</p> <p>21 don't.</p> <p>22 Q. Okay. If you're early, when do you</p> <p>23 arrive?</p> |
| <p style="text-align: right;">31</p> <p>1 A. She'll say "break." The line leader</p> <p>2 say "break" when it's time to go to</p> <p>3 break.</p> <p>4 Q. You can't go to break if there's birds</p> <p>5 in front of you, though, can you?</p> <p>6 A. If they catch you and she said go to</p> <p>7 break, you can go to break and they'll</p> <p>8 catch them. But if you're working on</p> <p>9 the line, if the bird is not past your</p> <p>10 spot right there, the bird haven't came</p> <p>11 down yet, you can't go to break because</p> <p>12 you just can't walk off the line. If</p> <p>13 you walk off your line, you're just</p> <p>14 going to be leaving your job.</p> <p>15 Q. So if you're not working on the line,</p> <p>16 you go to break. If you're in salvage,</p> <p>17 for instance -- and you work salvage</p> <p>18 still occasionally? Do you?</p> <p>19 A. Yes.</p> <p>20 Q. If you were working salvage, you can go</p> <p>21 to break when your supervisor tells you</p> <p>22 to; correct?</p> <p>23 A. Line leader.</p> | <p style="text-align: right;">33</p> <p>1 A. Sometimes by, like, 5:30.</p> <p>2 Q. And if you don't come early, when do</p> <p>3 you get there?</p> <p>4 A. Five forty-five.</p> <p>5 Q. So whether you arrive early or later,</p> <p>6 you still have enough time to get on</p> <p>7 the line; correct?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have to clear any security at</p> <p>10 the plant?</p> <p>11 A. Rephrase that.</p> <p>12 Q. When you drive in, do you have to stop?</p> <p>13 A. No.</p> <p>14 Q. Do you have a sticker on --</p> <p>15 A. Yes.</p> <p>16 Q. -- your car? They just wave you</p> <p>17 through?</p> <p>18 A. You got a sticker where he can see the</p> <p>19 sticker on your car.</p> <p>20 Q. They just wave you on?</p> <p>21 A. I don't know about wave, just --</p> <p>22 Q. You just go in? You're not stopped?</p> <p>23 A. No.</p>  |

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| <p style="text-align: right;">34</p> <p>1 Q. You're not searched?</p> <p>2 A. No.</p> <p>3 Q. None of your possessions are --</p> <p>4 A. No.</p> <p>5 Q. -- searched? None of your possessions</p> <p>6 are searched?</p> <p>7 A. No.</p> <p>8 Q. Once you park your car in the parking</p> <p>9 lot, where do you go?</p> <p>10 A. I go into the building.</p> <p>11 Q. And when you enter the building, where</p> <p>12 do you go?</p> <p>13 A. Sometimes to the bathroom and then go</p> <p>14 put my bags in my locker and get my</p> <p>15 supplies.</p> <p>16 Q. So you go to your locker first?</p> <p>17 A. No. I go to the bathroom first. It</p> <p>18 all depends.</p> <p>19 Q. All right. And then you go get</p> <p>20 supplies?</p> <p>21 A. No. I go to my locker and then go get</p> <p>22 supplies that I need.</p> <p>23 Q. And you pick up a smock --</p>  | <p style="text-align: right;">36</p> <p>1 A. Starts at six o'clock. Sometimes I go</p> <p>2 early; sometimes I won't.</p> <p>3 Q. When you go early, what time do you</p> <p>4 enter those production doors?</p> <p>5 A. Sometimes I'll be in there, like,</p> <p>6 fifteen minutes till sometimes.</p> <p>7 Q. And what do you do during those fifteen</p> <p>8 minutes?</p> <p>9 A. I'm getting my stuff on, what I need to</p> <p>10 do, and make sure everything is on.</p> <p>11 Q. When you don't go in early, when do you</p> <p>12 go onto the production floor?</p> <p>13 A. When I don't go in early, when --</p> <p>14 Q. Yes.</p> <p>15 A. -- do I go to the floor?</p> <p>16 Q. Yes.</p> <p>17 A. The regular time.</p> <p>18 Q. And what's the regular time?</p> <p>19 A. Five minutes till.</p> <p>20 Q. And do you still have time to put on</p> <p>21 the stuff?</p> <p>22 A. Yes.</p> <p>23 Q. Before you take your position on the</p>          |
| <p style="text-align: right;">35</p> <p>1 A. Yes.</p> <p>2 Q. -- hair net and gloves at supply?</p> <p>3 A. Yes.</p> <p>4 Q. And how long is your wait at supply to</p> <p>5 pick these things up, if at all?</p> <p>6 A. It all depends. Sometimes you move</p> <p>7 fast; sometimes it moves slow.</p> <p>8 Q. After you pick up your supplies, where</p> <p>9 do you go?</p> <p>10 A. Getting ready for the line.</p> <p>11 Q. What do you do to get ready for the</p> <p>12 line?</p> <p>13 A. I'm going to go into the doors to get</p> <p>14 dressed.</p> <p>15 Q. So you pick up your supplies and go</p> <p>16 immediately onto the production floor?</p> <p>17 A. Yes.</p> <p>18 Q. And you're supposed to be on the</p> <p>19 production floor five minutes</p> <p>20 beforehand?</p> <p>21 A. Yes.</p> <p>22 Q. So if you start at six o'clock, when do</p> <p>23 you usually go through those doors?</p> | <p style="text-align: right;">37</p> <p>1 line after you're dressed, are you</p> <p>2 required to perform any washing</p> <p>3 activities?</p> <p>4 A. You're supposed to wash all -- when</p> <p>5 you're getting ready to come in the</p> <p>6 door after you're dressed, you're</p> <p>7 supposed to wash off, sanitize down,</p> <p>8 soap and water.</p> <p>9 Q. How long does that take?</p> <p>10 A. Probably about five minutes or</p> <p>11 whatever.</p> <p>12 Q. Five minutes? What do you do in those</p> <p>13 five minutes?</p> <p>14 A. You're putting soap on and you're</p> <p>15 washing down.</p> <p>16 Q. It takes you five minutes?</p> <p>17 A. It's only four people up -- four hoses</p> <p>18 up there. Everybody got to wash off.</p> <p>19 Q. So part of that time is waiting time?</p> <p>20 A. Yes.</p> <p>21 Q. But once you start actually washing</p> <p>22 yourself down, how long does that take?</p> <p>23 A. I don't know.</p> |



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| <p style="text-align: right;">38</p> <p>1 Q. A minute?</p> <p>2 MR. UNDERWOOD: Objection.</p> <p>3 Asked and answered. She said she</p> <p>4 didn't know.</p> <p>5 Q. You can answer.</p> <p>6 MR. UNDERWOOD: You can answer,</p> <p>7 though, if you know.</p> <p>8 Q. You don't know?</p> <p>9 A. No.</p> <p>10 Q. How long of a walk is it from the</p> <p>11 debone break room to the doors to enter</p> <p>12 the evisceration department?</p> <p>13 A. Repeat again, please.</p> <p>14 Q. How long of a walk is it from the</p> <p>15 debone break room to the entryway to</p> <p>16 the evisceration department?</p> <p>17 A. Five or six -- five or six minutes,</p> <p>18 something like that.</p> <p>19 Q. Five or six minutes?</p> <p>20 A. Five or six, seven, I guess.</p> <p>21 Q. You have a five-minute or seven-minute</p> <p>22 walk from the break room to the entry</p> <p>23 doors?</p>   | <p style="text-align: right;">40</p> <p>1 your stuff up on the line where it need</p> <p>2 to go and then you go on to break.</p> <p>3 Q. What do you take off?</p> <p>4 A. I take everything I'm supposed to take</p> <p>5 off -- my arm guard, my gloves, and my</p> <p>6 cotton liners, my smock, and my apron</p> <p>7 and my chain glove.</p> <p>8 Q. And you wash it off and then you take</p> <p>9 it off and then you proceed to the</p> <p>10 break room?</p> <p>11 A. Yes.</p> <p>12 Q. Can you estimate the amount of time it</p> <p>13 takes you to walk to the wash stand,</p> <p>14 wash this stuff off, take it off, and</p> <p>15 leave?</p> <p>16 A. I really haven't timed it.</p> <p>17 Q. Do all the employees that you can</p> <p>18 observe wash before leaving the</p> <p>19 production floor?</p> <p>20 A. I don't try watching nobody else.</p> <p>21 Q. You don't know?</p> <p>22 A. (Witness shakes head.)</p> <p>23 MR. UNDERWOOD: That's no?</p> |
| <p style="text-align: right;">39</p> <p>1 A. Something like that, about five or</p> <p>2 seven.</p> <p>3 Q. Did you ever time it?</p> <p>4 A. Not really.</p> <p>5 Q. Once you get onto the production floor,</p> <p>6 how long does it take you to put on</p> <p>7 your smock, apron, and sleeves?</p> <p>8 A. I don't know.</p> <p>9 Q. Once it's time to go on break, tell me</p> <p>10 what you do from the time you're told</p> <p>11 or you're able to go on break until you</p> <p>12 get into the break room.</p> <p>13 A. Say what, now?</p> <p>14 Q. It's time for you to go on break.</p> <p>15 Okay? What do you do? You have to</p> <p>16 take --</p> <p>17 A. Well --</p> <p>18 Q. -- some things off; correct?</p> <p>19 A. Yeah. You have to get undressed.</p> <p>20 Q. Explain to me what you do.</p> <p>21 A. You're going to break, you have to wash</p> <p>22 down. When you go on a break, you get</p> <p>23 all the chicken off of you and hang</p> | <p style="text-align: right;">41</p> <p>1 THE WITNESS: No.</p> <p>2 MR. UNDERWOOD: We've got to</p> <p>3 answer out loud.</p> <p>4 A. No.</p> <p>5 Q. Okay. Let's go -- take me through the</p> <p>6 reverse procedure. You're on break,</p> <p>7 it's time to go back on. How do you</p> <p>8 know when your break is over?</p> <p>9 A. You look at the clock.</p> <p>10 Q. You just do it by looking at the clock?</p> <p>11 A. You only get thirty minutes. But</p> <p>12 sometimes it's not the whole thirty</p> <p>13 minutes.</p> <p>14 Q. So you leave the break area and you</p> <p>15 walk to the evisceration doors and you</p> <p>16 go in and you put the stuff on again.</p> <p>17 You don't have to wash it now, do you?</p> <p>18 A. Yes.</p> <p>19 Q. You wash it a second time?</p> <p>20 A. Yes.</p> <p>21 Q. And what's the reason for that, if you</p> <p>22 know?</p> <p>23 A. I don't know. But you just have to do</p>                                 |

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| <p style="text-align: right;">42</p> <p>1 it, wash it again.</p> <p>2 Q. Who told you you had to wash it again?</p> <p>3 A. You've got QAs. You've got to wash</p> <p>4 down before you come in.</p> <p>5 Q. Well, my question is -- you're going</p> <p>6 back from break; you enter the evis</p> <p>7 room. Okay? Before you left to go on</p> <p>8 break, you washed yourself all down.</p> <p>9 You went on break. Now you're coming</p> <p>10 back and you're putting on your smock</p> <p>11 and your apron and your guards again.</p> <p>12 And you're telling me you have to wash</p> <p>13 them again?</p> <p>14 A. Yes.</p> <p>15 Q. How long does that take you?</p> <p>16 A. I don't know.</p> <p>17 Q. Tell me what you do at the end of the</p> <p>18 day when it's time to go home.</p> <p>19 A. I get ready to leave and wash off again</p> <p>20 when it's time to go and clean off my</p> <p>21 stuff.</p> <p>22 Q. You leave your workstation, you walk to</p> <p>23 the wash stand; correct?</p> | <p style="text-align: right;">44</p> <p>1 A. Yes.</p> <p>2 Q. You don't have to take anything home?</p> <p>3 A. No.</p> <p>4 Q. Have you ever had to take anything home</p> <p>5 to wash?</p> <p>6 A. No.</p> <p>7 Q. And then you clock out and leave?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have an understanding as to how</p> <p>10 the company keeps track of your time?</p> <p>11 A. Yes.</p> <p>12 Q. And what is your understanding?</p> <p>13 A. Master time.</p> <p>14 Q. What's master time?</p> <p>15 A. Master card is what they swipe.</p> <p>16 Q. Who's "they"?</p> <p>17 A. Supervisors.</p> <p>18 Q. And how did you come upon this</p> <p>19 understanding of master time as the way</p> <p>20 you're paid?</p> <p>21 A. Line leader.</p> <p>22 Q. Did you talk to the line leader about</p> <p>23 it?</p>   |
| <p style="text-align: right;">43</p> <p>1 A. Yes.</p> <p>2 Q. You wash yourself off?</p> <p>3 A. Yes.</p> <p>4 Q. And then you take off the apron, the</p> <p>5 smock, and the guards?</p> <p>6 Q. And what do you do with the apron and</p> <p>7 the guards?</p> <p>8 A. I'm going to take it to my locker when</p> <p>9 I finish washing it off.</p> <p>10 Q. What do you do with the smock?</p> <p>11 A. I put it in the little thing they got</p> <p>12 outside, the hamper or whatever.</p> <p>13 Q. What about the hair net?</p> <p>14 A. Put it in the trash.</p> <p>15 Q. And the gloves?</p> <p>16 A. Trash.</p> <p>17 Q. And after you put these items in the</p> <p>18 trash, what do you do?</p> <p>19 A. I'm going to clock out.</p> <p>20 Q. Do you go to your locker first?</p> <p>21 A. Yes.</p> <p>22 Q. And do you store the apron and the</p> <p>23 plastic guards in your locker?</p>  | <p style="text-align: right;">45</p> <p>1 A. No. I was a line leader.</p> <p>2 Q. You were a line leader, so you knew</p> <p>3 how --</p> <p>4 A. Yes.</p> <p>5 Q. -- it works? And has it been your</p> <p>6 understanding since you worked there</p> <p>7 that you were paid from the time the</p> <p>8 line leader swipes the card --</p> <p>9 A. Yes.</p> <p>10 Q. -- until he -- wait. Has it been your</p> <p>11 understanding since you've worked at</p> <p>12 the plant --</p> <p>13 A. Yes.</p> <p>14 Q. -- that --</p> <p>15 MR. UNDERWOOD: Calm down.</p> <p>16 It's okay.</p> <p>17 Q. Has it been your understanding since</p> <p>18 you worked at the plant that you are</p> <p>19 paid for the time that you worked</p> <p>20 between when the line leader swipes the</p> <p>21 card in and when he swipes it out? Is</p> <p>22 that your understanding?</p> <p>23 A. Yes.</p> |

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| <p style="text-align: right;">46</p> <p>1 Q. Have you ever complained to your<br/>2 supervisor about your paycheck?<br/>3 A. Yes.<br/>4 Q. And what was the problem that you<br/>5 complained about?<br/>6 A. When I haven't had my hours on my<br/>7 check, vacation pay, or a holiday, a<br/>8 misprint, I guess.<br/>9 Q. And has the supervisor managed to take<br/>10 care of the problem?<br/>11 A. Yes.<br/>12 Q. Has he taken care of the problem each<br/>13 time it happened?<br/>14 A. Yes.<br/>15 Q. Have you ever kept any kind of a diary<br/>16 or notebook or notes documenting what<br/>17 you believe to be the hours that you<br/>18 worked at Equity for which you weren't<br/>19 paid?<br/>20 A. No.<br/>21 Q. Have you made any calculations as to<br/>22 the time that you worked but you<br/>23 weren't paid for that you're claiming</p> | <p style="text-align: right;">48</p> <p>1 with the union?<br/>2 A. Okay. You're talking about, like,<br/>3 agreement?<br/>4 Q. Over the labor agreement, yes.<br/>5 A. Uh-uh.<br/>6 Q. You haven't?<br/>7 A. I don't understand that.<br/>8 Q. Do you understand as a union steward<br/>9 that if an employee believes that he<br/>10 has been treated in a fashion that's<br/>11 not consistent with the labor<br/>12 agreement, that he can file a grievance<br/>13 with the union?<br/>14 A. Okay. Now, I understand that. Yeah.<br/>15 Q. Have you ever filed such --<br/>16 A. No.<br/>17 Q. -- grievance? Has anyone filed a<br/>18 grievance through you with respect to<br/>19 any pay issues?<br/>20 A. No.<br/>21 Q. During the time that you've worked at<br/>22 the Baker Hill facility, have you ever<br/>23 been disciplined for anything?</p> |
| <p style="text-align: right;">47</p> <p>1 here in this lawsuit?<br/>2 A. No.<br/>3 Q. Have you ever worked overtime?<br/>4 A. Yes.<br/>5 Q. Do you get paid time and a half for<br/>6 overtime?<br/>7 A. Yes.<br/>8 Q. Have you ever filed a grievance with<br/>9 the union about any pay issues?<br/>10 A. Yes.<br/>11 Q. And what was the nature of the<br/>12 grievance?<br/>13 A. When you get paid, if your check was<br/>14 wrong -- like they gave us a raise, but<br/>15 some got it and some didn't and it was<br/>16 supposed to be on your check and it<br/>17 wasn't.<br/>18 Q. So you filed a union grievance?<br/>19 A. Oh, what do you mean?<br/>20 Q. I don't mean a complaint with HR.<br/>21 A. Okay.<br/>22 Q. You know, filing a grievance with the<br/>23 union. Have you ever filed a grievance</p>   | <p style="text-align: right;">49</p> <p>1 A. Example like as for what?<br/>2 Q. Have you ever been written up for<br/>3 anything?<br/>4 A. Yes.<br/>5 Q. What have you been written up for?<br/>6 A. Like, birds on the table and --<br/>7 Q. Pardon?<br/>8 A. Birds. When you work in your area,<br/>9 like they're on a table. It was, like,<br/>10 a counseling. And then the next step<br/>11 will be, like, a written warning,<br/>12 whatever. You have to follow the<br/>13 procedure they go in.<br/>14 Q. Anything else?<br/>15 A. On the line for job performance, so<br/>16 they say. A lot of other stuff I can't<br/>17 recall.<br/>18 Q. A lot of other stuff?<br/>19 A. Yeah.<br/>20 Q. And you've never filed a grievance<br/>21 disputing any of these?<br/>22 A. I mean, it ain't --<br/>23 MR. UNDERWOOD: Just answer --</p>              |



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| <p style="text-align: right;">50</p> <p>1 A. No.</p> <p>2 Q. Thank you.</p> <p>3 MR. FRY: I don't have any more</p> <p>4 questions.</p> <p>5 MR. UNDERWOOD: I've just got a</p> <p>6 few follow-ups.</p> <p>7 EXAMINATION</p> <p>8 BY MR. UNDERWOOD:</p> <p>9 Q. Now, when you come in in the morning,</p> <p>10 you have to put on all your PP</p> <p>11 equipment that you testified to?</p> <p>12 A. Yes.</p> <p>13 Q. And you're not getting paid on master</p> <p>14 time for that; is that correct?</p> <p>15 A. What?</p> <p>16 Q. You put that on before you go on the</p> <p>17 line; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And you don't get paid until you</p> <p>20 go on the line; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And when you leave in the afternoon,</p> <p>23 when you go off the line, you're not</p>   | <p style="text-align: right;">52</p> <p>1 off.</p> <p>2 Q. All right.</p> <p>3 MR. UNDERWOOD: That's all I've</p> <p>4 got.</p> <p>5 EXAMINATION</p> <p>6 BY MR. FRY:</p> <p>7 Q. You don't have to stop now when you</p> <p>8 walk through to have your boots</p> <p>9 sanitized, do you?</p> <p>10 A. Yes. If you don't have the stuff off</p> <p>11 there on the floor, you have to mash</p> <p>12 the button' you have to stop and</p> <p>13 sanitize your boots in the little white</p> <p>14 stuff, whatever you call it, out there.</p> <p>15 Q. Okay.</p> <p>16</p> <p>17 (The deposition of Felicia Laseter</p> <p>18 concluded at 2:39 p.m. on May 21,</p> <p>19 2008.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">51</p> <p>1 getting paid; is that right?</p> <p>2 A. No.</p> <p>3 Q. And you have to go and take off all</p> <p>4 your PPE after that; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And that is a part of your claim</p> <p>7 sitting here today; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And you cannot go onto the</p> <p>10 production floor without your hair net</p> <p>11 and plugs; right?</p> <p>12 A. Yes.</p> <p>13 Q. You have to have those on before you</p> <p>14 enter the production facility?</p> <p>15 A. Yes.</p> <p>16 Q. And you also have to stop at some</p> <p>17 point -- is it before or in between</p> <p>18 those double doors to sanitize your</p> <p>19 boots?</p> <p>20 A. When you're coming in, it's before,</p> <p>21 because the sanitizer is right there.</p> <p>22 When you walk in the door, you have to</p> <p>23 mash the button and sanitize your boots</p> | <p style="text-align: right;">53</p> <p>1 * * * * *</p> <p>2 REPORTER'S CERTIFICATE</p> <p>3 * * * * *</p> <p>4 STATE OF ALABAMA</p> <p>5 COUNTY OF MONTGOMERY</p> <p>6 I do hereby certify that the above</p> <p>7 and foregoing transcript was taken down</p> <p>8 by me in stenotype, and the questions</p> <p>9 and answers thereto were transcribed by</p> <p>10 means of computer-aided transcription,</p> <p>11 and that the foregoing represents a</p> <p>12 true and correct transcript of the</p> <p>13 testimony given by said witness.</p> <p>14 I further certify that I am neither</p> <p>15 of counsel, nor any relation to the</p> <p>16 parties to the action, nor am I anyway</p> <p>17 interested in the result of said case.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 <u>Bridgette W. Mitchell,</u></p> <p>22 Certified Court Reporter and</p> <p>23 Commissioner for the State of</p> <p>Alabama at Large</p> <p>ACCR No. 231 - Expires 9/30/08</p> <p>MY COMMISSION EXPIRES 1/25/2010</p> |

**TAB 33**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF  
CHRISTOPHER LASTER

JOB NO. 1101-58403

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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|---|---|
| <p>2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 22nd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of CHRISTOPHER LASTER</p> <p>16 may be taken before Victoria M. Castillo,</p> <p>17 Commissioner, at WILLIAMS, POTTHOFF, WILLIAMS &amp;</p> <p>18 SMITH, 125 South Orange Avenue, Eufaula, Alabama</p> <p>19 36027 on the 22nd day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p>4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 7, 59</p> <p>5 Mr. Underwood 48, 69</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p>3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p>5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 Carl E. Underwood, III, Esq.</p> <p>5 THE COCHRAN FIRM</p> <p>6 163 West Main Street</p> <p>7 Dothan, Alabama 36302</p> <p>8</p> <p>9 Robert J. Camp, Esq.</p> <p>10 THE COCHRAN FIRM</p> <p>11 505 North 20th Street</p> <p>12 Suite 825</p> <p>13 Birmingham, Alabama 35203</p> <p>14</p> <p>15 M. John Steensland, III, Esq.</p> <p>16 PARKMAN, ADAMS &amp; WHITE</p> <p>17 739 West Main Street</p> <p>18 Dothan, Alabama 36301</p> <p>19</p> <p>20 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>21 Gary D. Fry, Esq.</p> <p>22 Pelino &amp; Lentz</p> <p>23 One Liberty Place</p> |

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| <p>6</p> <p>1 Thirty-Second Floor</p> <p>2 1650 Market Street</p> <p>3 Philadelphia, Pennsylvania 19103</p> <p>4 *****</p> <p>5</p> <p>6</p> <p>7 I, Victoria M. Castillo, a Court</p> <p>8 Reporter of Montgomery, Alabama, acting as</p> <p>9 Commissioner, certify that on this date, as</p> <p>10 provided by the Alabama Rules of Civil Procedure</p> <p>11 and the foregoing stipulation of counsel, there</p> <p>12 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;</p> <p>13 SMITH, 125 South Orange Avenue, Eufaula, Alabama</p> <p>14 36027, commencing at 11:51 a.m., CHRISTOPHER</p> <p>15 LASTER, in the above cause, for oral examination,</p> <p>16 whereupon the following proceedings were had:</p> <p>17</p> <p>18 CHRISTOPHER LASTER,</p> <p>19 being first duly sworn, was examined and</p> <p>20 testified as follows:</p> <p>21</p> <p>22 COURT REPORTER: Usual</p> <p>23 stipulations?</p>  | <p>8</p> <p>1 so you can understand it. If you don't hear</p> <p>2 anything I say, let me know and I will repeat it.</p> <p>3 Let's not try and talk over one another because she</p> <p>4 can only record one of us at a time. Okay?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And last thing -- any answer that you</p> <p>7 give needs to be verbal, as opposed to a nod or a</p> <p>8 shake of the head. Okay?</p> <p>9 A. Yes.</p> <p>10 Q. Where do you live?</p> <p>11 A. 8525 County Road 54 West, Clopton,</p> <p>12 Alabama.</p> <p>13 Q. And what's your date of birth?</p> <p>14 A. 3/12/66.</p> <p>15 Q. Are you currently employed?</p> <p>16 A. Yes, sir.</p> <p>17 Q. By whom?</p> <p>18 A. Equity Group.</p> <p>19 Q. How long have you worked for Equity?</p> <p>20 A. Six years.</p> <p>21 Q. So you started in 2002?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And at that time CP was running the</p>  |
| <p>7</p> <p>1 MR. UNDERWOOD: Yes.</p> <p>2 MR. FRY: Yes.</p> <p>3</p> <p>4 EXAMINATION BY MR. FRY:</p> <p>5 Q. Mr. Laster, is it?</p> <p>6 A. Yes.</p> <p>7 Q. My name is Gary Fry. I'm one of the</p> <p>8 lawyers for Equity Group Eufaula, the folks that</p> <p>9 operate the poultry plant out in Baker Hill, and</p> <p>10 we've asked you to come here today to put some</p> <p>11 questions to you concerning a lawsuit that you and</p> <p>12 some others have filed against the company.</p> <p>13 A. Yes, sir.</p> <p>14 Q. Have you ever been deposed before?</p> <p>15 A. No, sir.</p> <p>16 Q. I'm sure your lawyers have probably</p> <p>17 told you what's going to happen, but let me give</p> <p>18 you a few brief guidelines. I'm going to be asking</p> <p>19 the questions, and you will be giving me the</p> <p>20 answers, and Victoria is the court reporter, and</p> <p>21 she will be taking down what we say. If you don't</p> <p>22 understand one of my questions, it's important for</p> <p>23 you to let me know that so that I can rephrase it</p> | <p>9</p> <p>1 place?</p> <p>2 A. Yes, sir.</p> <p>3 Q. What's your current job at Equity?</p> <p>4 A. Well, wherever they need help at,</p> <p>5 because I work live hang, back dock, kill room,</p> <p>6 sometimes the evis. So basically I'm supposed to</p> <p>7 start up in the kill room setting the pickers. I</p> <p>8 come in supposed to start up in the picking room,</p> <p>9 kill room -- same thing.</p> <p>10 Q. So is it fair to say you're a</p> <p>11 floater?</p> <p>12 A. Yes, you can say that.</p> <p>13 Q. How long have you been a floater?</p> <p>14 A. Well, I can't really say, but it's</p> <p>15 been ever since I became a line leader and learned</p> <p>16 the job that's in there -- learned the job. As I</p> <p>17 learned the job, that's when they started floating</p> <p>18 me around for people to have help.</p> <p>19 Q. Are you currently a line leader?</p> <p>20 A. No, sir.</p> <p>21 Q. When you work in evis, for example,</p> <p>22 are you assigned there to work on for a full day,</p> <p>23 or a full week, or a month, or do you go in there</p> |

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| <p style="text-align: right;">10</p> <p>1 for a few hours, or how does that work?</p> <p>2 A. Well, however long they need me in</p> <p>3 there. If they need me to help them catch up on</p> <p>4 this, I help them catch up on that -- then I go</p> <p>5 back to the kill room until I help them with that,</p> <p>6 then I go back to the kill room.</p> <p>7 Q. If you had to estimate the amount of</p> <p>8 time that you spend in the evisceration production</p> <p>9 floor, how much time would that be?</p> <p>10 A. Well, I can't say because I don't</p> <p>11 keep up time. I just go in there and do my job,</p> <p>12 and the only time I be looking for is break time.</p> <p>13 Q. How often do you work in evis?</p> <p>14 A. It's not often, but it's just when</p> <p>15 they need help.</p> <p>16 Q. Well, when you say it's not often, is</p> <p>17 it once a week?</p> <p>18 A. You can say once a week.</p> <p>19 Q. And that would be a portion of one</p> <p>20 day during that week?</p> <p>21 A. You can't say because you don't</p> <p>22 really know when you're going -- I mean, actually</p> <p>23 how long it's going to be. It might be all day, it</p>            | <p style="text-align: right;">12</p> <p>1 A. I have done it, but I -- lately --</p> <p>2 Q. How often does that happen?</p> <p>3 A. When I was in training, I got on the</p> <p>4 line to learn the job. So I had to get on the line</p> <p>5 to learn the job. So it was like two or three</p> <p>6 times a week when I did it just to learn to job.</p> <p>7 Until I caught on and learned how to do it, then I</p> <p>8 stopped.</p> <p>9 Q. What do you do in the kill room?</p> <p>10 A. I come in in the morning to set the</p> <p>11 pickers, make sure the birds being picked right,</p> <p>12 scalding temperature right, make sure that birds</p> <p>13 not dropping off in the drain, keep the kill room</p> <p>14 floor clean, and if I have to relieve one of the</p> <p>15 back-up killers from if they have to go to the</p> <p>16 bathroom or whatever -- whatever they need, if they</p> <p>17 ever go out, I have to go in and help cut back-up</p> <p>18 kill, cut birds, and stuff like that.</p> <p>19 Q. What do you do in the back dock?</p> <p>20 A. Drive forklift, spotter truck, and</p> <p>21 dump -- whatever one they need me to do.</p> <p>22 Q. You drive a forklift?</p> <p>23 A. Spotter truck?</p> |
| <p style="text-align: right;">11</p> <p>1 might not be. So you go in there and do what your</p> <p>2 supervisor asks you to do.</p> <p>3 Q. So when you say it's not often you</p> <p>4 work in evis, can I assume that most of your job</p> <p>5 responsibilities are centered on the kill room, the</p> <p>6 back dock, and live hang?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And has that been for the entire six</p> <p>9 years you've been there?</p> <p>10 A. I started off at the back dock, then</p> <p>11 I moved to the live hang, then I moved to the kill</p> <p>12 room. So I've been going backward and forward</p> <p>13 after I learned everything, helping out where they</p> <p>14 need help at.</p> <p>15 Q. On those times when you are told to</p> <p>16 go work in evis, what do you do?</p> <p>17 A. Well, I might have to help them catch</p> <p>18 up throwing birds up on the rehanger table. When</p> <p>19 the line stop and the birds pile up, I might have</p> <p>20 to just go in there and help them throw birds back</p> <p>21 up on the rehang table.</p> <p>22 Q. Do you ever get on the evis line and</p> <p>23 do the work of the production workers on the line?</p> | <p style="text-align: right;">13</p> <p>1 Q. Spider?</p> <p>2 A. Spotter.</p> <p>3 Q. And what else?</p> <p>4 A. Dump birds.</p> <p>5 Q. What do you mean "dump birds"?</p> <p>6 A. Well, the forklift driver put the</p> <p>7 birds up on the dock, and they dump them to go down</p> <p>8 in live hang.</p> <p>9 Q. What's the spotter lift?</p> <p>10 A. Spotter truck is where you bring the</p> <p>11 trailers up so the birds can be dumped, so the</p> <p>12 forklift driver can unload the trailer.</p> <p>13 Q. When you dump birds, you dump them</p> <p>14 into the live hang area?</p> <p>15 A. You dump on a belt to go into the</p> <p>16 live hang area.</p> <p>17 Q. When you work in the live hang area,</p> <p>18 what do you do?</p> <p>19 A. You hang birds.</p> <p>20 Q. Have we gone over basically</p> <p>21 everything that you do as a floater -- evis, kill</p> <p>22 room, back dock, and live hang?</p> <p>23 A. Yes, sir.</p>  |

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| <p style="text-align: right;">14</p> <p>1 Q. You told me that you don't work in<br/>2 evis very often.<br/>3 A. No.<br/>4 Q. With respect to the kill room, the<br/>5 back dock, and the live hang, which of those areas<br/>6 do you spend most of your time in?<br/>7 A. In the kill room.<br/>8 Q. What area do you spend the next most<br/>9 amount of time in?<br/>10 A. Lately been on the back dock.<br/>11 Q. Can you move around within these<br/>12 three positions in one day?<br/>13 A. Well, it depends. If somebody<br/>14 leaves -- mostly on the back dock. If somebody<br/>15 leave, they don't have nobody else to do it on the<br/>16 back dock. They got somebody in live hang, but<br/>17 they need everybody in live hang, so most of the<br/>18 time if somebody leave I go to the back dock. Now<br/>19 live hang, most of the time they will get somebody<br/>20 from off the evis floor to take them up there and<br/>21 let them hang birds in live hang. I will go to the<br/>22 back dock. If the guy on the spotter truck is not<br/>23 there, I go take the spotter truck driver. If the</p> | <p style="text-align: right;">16</p> <p>1 trainee down there. It's Neil -- what's Neil's<br/>2 last name? I can't think of his last name, but he<br/>3 just came, and he's really -- he just come down to<br/>4 live hang, and he's my supervisor. But James<br/>5 McElroy been the supervisor over me before he came.<br/>6 Q. What department are you slotted into,<br/>7 if you know?<br/>8 A. They call it -- by the code it's 6-KD<br/>9 by the code of the plant it's 6-KD, and that's<br/>10 considered live hang.<br/>11 Q. You work eight hours a day?<br/>12 A. Like I said, I come in from -- it's<br/>13 like eight-and-a-half hours a day.<br/>14 Q. How many days a week do you work?<br/>15 A. Five days, and sometimes six when<br/>16 they have us to work.<br/>17 Q. When you first started working out<br/>18 there, CP ran the plant?<br/>19 A. Yes, sir.<br/>20 Q. And did you do this same function?<br/>21 A. No, sir. I first started out -- like<br/>22 I told you -- I first started out -- I started out<br/>23 on the back dock, and I moved to live hang when CP</p> |
| <p style="text-align: right;">15</p> <p>1 dumper is not there, I take the dumper. If the<br/>2 lift driver ain't there, I take the lift driver.<br/>3 It depends on whichever one that have to leave or<br/>4 go or whatever.<br/>5 Q. So are there days when you can float<br/>6 among all three of these positions?<br/>7 A. It can happen.<br/>8 Q. It is more often that you spend most<br/>9 of your day in one of the three areas?<br/>10 A. Repeat the question for me.<br/>11 Q. Sure. Does it happen more frequently<br/>12 that you spend all of your time in one of these<br/>13 three areas all day?<br/>14 A. I spend most of my time in the kill<br/>15 room, and then like I said, if I have to, then I<br/>16 move. If they come tell me that somebody got to<br/>17 leave, I move.<br/>18 Q. What shift do you work?<br/>19 A. First.<br/>20 Q. And what are your hours?<br/>21 A. Coming from 5:30 to three.<br/>22 Q. And who is your supervisor?<br/>23 A. Right now they got a supervisor</p>  | <p style="text-align: right;">17</p> <p>1 was working then. But when Keystone took over, I<br/>2 had already learned all the jobs, and I started<br/>3 rotating.<br/>4 Q. Have we gone over all of the jobs<br/>5 that you have had out there at that facility?<br/>6 A. I had the supervisor trainee job.<br/>7 That's the job I had.<br/>8 Q. When did you do that?<br/>9 A. It's been about six or seven months<br/>10 that I did it, so it's just recently about a month<br/>11 ago that I turned the job down.<br/>12 Q. So you were a supervisor trainee, and<br/>13 you ultimately turned the job down?<br/>14 A. Yes.<br/>15 Q. Are you a member of the Union?<br/>16 A. Yes.<br/>17 Q. How long have you been a member of<br/>18 the Union?<br/>19 A. About three years.<br/>20 Q. Have you ever been a steward?<br/>21 A. No, sir.<br/>22 Q. Have you ever been on any negotiating<br/>23 committee?</p>  |



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| <p style="text-align: right;">18</p> <p>1 A. No, sir.</p> <p>2 Q. Have you attended any Union meetings?</p> <p>3 A. No, sir.</p> <p>4 Q. You understand that you are a</p> <p>5 plaintiff in this lawsuit?</p> <p>6 A. Yes, sir.</p> <p>7 Q. How did you hear about the suit?</p> <p>8 A. Through friends.</p> <p>9 Q. What do your friends tell you?</p> <p>10 A. Basically just said that have you</p> <p>11 heard anything about the lawsuit going against the</p> <p>12 Keystone? I said no. And they just told me that</p> <p>13 it was taking -- we had to go see somebody. I</p> <p>14 can't remember who it was, but they had to go see</p> <p>15 somebody about it. And I went and talked to them.</p> <p>16 I had to call the Cochran Firm -- that's who I had</p> <p>17 to call to talk to them about it. And it started</p> <p>18 from there.</p> <p>19 Q. Did you discuss the suit with your</p> <p>20 coworkers?</p> <p>21 A. No more than what they was saying, no</p> <p>22 more than what I had heard.</p> <p>23 Q. What did you hear about the suit?</p>  | <p style="text-align: right;">20</p> <p>1 A. Personal Protective Equipment.</p> <p>2 Q. Let's start with the kill room. When</p> <p>3 you work in the kill room, what PPE do you wear?</p> <p>4 A. Your ear plugs; you have to wear your</p> <p>5 apron -- you wear your apron; you wear your -- you</p> <p>6 have to have your hair net, beard net on, your</p> <p>7 smock, you have to have on, your rubber boots --</p> <p>8 and I said hair net and beard net, right?</p> <p>9 Q. Yes, sir.</p> <p>10 A. And that's it.</p> <p>11 Q. Let me review the list to make sure</p> <p>12 we got everything. You wear ear plugs; you wear an</p> <p>13 apron; you wear a smock; you wear boots; you wear a</p> <p>14 hair net, and a beard net?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And you wear those things when you</p> <p>17 are in the kill room?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Do you wear anything else?</p> <p>20 A. No, sir. I don't have to wear safety</p> <p>21 glasses because I have my glasses, but I have to</p> <p>22 make sure I have to keep up with them. Because if</p> <p>23 you don't, you get wrote up if you lose anything</p> |
| <p style="text-align: right;">19</p> <p>1 A. Just heard that they was suing for</p> <p>2 time that you started work, time you had to put on</p> <p>3 your PPE, and everything from there until the time</p> <p>4 you get off.</p> <p>5 Q. What's your understanding of your</p> <p>6 claim?</p> <p>7 A. The understanding is that I want to</p> <p>8 get paid for the time that I was there from the</p> <p>9 time I started work, from the time you start</p> <p>10 putting your PPE, to the time you get off and</p> <p>11 taking off your PPE and you still on the clock. As</p> <p>12 long as you still on the clock, you need to get</p> <p>13 paid for it.</p> <p>14 Q. What's your understanding of the time</p> <p>15 for which you weren't paid that you think you</p> <p>16 should be paid?</p> <p>17 A. From putting on and taking off your</p> <p>18 PPE, from the time you have to come back earlier so</p> <p>19 that you can get on your line, because everybody</p> <p>20 get off at different times. The lines -- you don't</p> <p>21 actually get off at the same time, but everybody</p> <p>22 has to be back at the same time.</p> <p>23 Q. What's PPE?</p> | <p style="text-align: right;">21</p> <p>1 and don't report it.</p> <p>2 Q. Is it your understanding you are</p> <p>3 required to wear each and every one of those items</p> <p>4 when you are working in the kill room?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Do you wear any PPE, as you put it,</p> <p>7 when you are working on the back dock?</p> <p>8 A. Well, you have to wear your safety</p> <p>9 glasses, which I don't have to wear; you wear your</p> <p>10 smock; you still wear your apron because of fecal</p> <p>11 or whatever; and you wear your rubber gloves; your</p> <p>12 ear plugs. Basically the same thing that I wear on</p> <p>13 the inside, I wear on the outside.</p> <p>14 Q. You didn't tell me that you wear</p> <p>15 gloves when you work in the kill room?</p> <p>16 A. Well, I wear cotton liners and rubber</p> <p>17 gloves.</p> <p>18 Q. So when you are working in the kill</p> <p>19 room you wear the white liners and the rubber</p> <p>20 gloves?</p> <p>21 A. Yes, sir.</p> <p>22 Q. When you're working on the back dock,</p> <p>23 you wear goggles?</p>   |



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| <p style="text-align: right;">22</p> <p>1 A. I don't wear goggle because I have my<br/>2 glasses. I don't have to wear goggles.<br/>3 Q. You don't have to wear goggles at<br/>4 all, even when you are working on the dock?<br/>5 A. Huh-uh.<br/>6 Q. You wear a smock, the apron, the<br/>7 white gloves, the rubber gloves, the ear plugs.<br/>8 Anything else?<br/>9 A. That's it. You don't have to wear<br/>10 your beard net and your hair net. They don't want<br/>11 you to wear them on the outside.<br/>12 Q. Is it your understanding that each of<br/>13 those items are required when you are working in<br/>14 the back dock?<br/>15 A. Yes, sir.<br/>16 Q. What do you wear when you are working<br/>17 live hang?<br/>18 A. You wear cotton liners, rubber<br/>19 gloves -- or either you can wear your shackling<br/>20 gloves, sleeves. You wear the plastic sleeve; you<br/>21 wear hair net; beard net; and you have to wear your<br/>22 safety glasses if you don't wear glasses. You wear<br/>23 your rubber boots; you wear your apron, or a smock,</p> | <p style="text-align: right;">24</p> <p>1 A. You got three guys back-up killing --<br/>2 you got two back-up killing; you got one on the<br/>3 other side in the blood tank to catch birds that go<br/>4 by that haven't had their throat cut; and me.<br/>5 That's maybe four in all.<br/>6 Q. When you are working on the back<br/>7 dock, how many other people are working out there<br/>8 with you?<br/>9 A. Three people in all.<br/>10 Q. And what about live hang?<br/>11 A. It varies. You can have -- you might<br/>12 have 17; you might have 16; you might have 12. It<br/>13 depends on how many people come into work.<br/>14 Q. And they are all engaged in live<br/>15 hanging?<br/>16 A. Yes, sir.<br/>17 Q. And that's just what the word means,<br/>18 do you hang the birds on the --<br/>19 A. The shackle.<br/>20 Q. The shackles?<br/>21 A. Yes. They'd rather call it live<br/>22 shackling.<br/>23 Q. Am I correct that all of these items</p>  |
| <p style="text-align: right;">23</p> <p>1 whichever one you wear; and hair net and beard<br/>2 net. Did I mention that?<br/>3 Q. You got those.<br/>4 A. Hair net, beard net, the smock,<br/>5 cotton liners, rubber gloves -- either your<br/>6 shackling gloves, and they got some cotton<br/>7 sleeves. You can wear them, too.<br/>8 Q. You have to wear them?<br/>9 A. Well, you don't have to, but you wear<br/>10 them. A lot of people wear them because if you<br/>11 don't, it will break you out in a rash if you<br/>12 don't.<br/>13 Q. But they are optional?<br/>14 A. Yes.<br/>15 Q. So in live hang you wear the white<br/>16 and plastic gloves, you wear the sleeves, hair net,<br/>17 beard net, boots, apron, and a smock?<br/>18 A. Yes.<br/>19 Q. Anything else?<br/>20 A. Your ear plugs.<br/>21 Q. When you're working in the kill room,<br/>22 how many other employees are working in there with<br/>23 you?</p>   | <p style="text-align: right;">25</p> <p>1 that you have identified for me and all three jobs<br/>2 are issued to you by Equity?<br/>3 A. Well, you get it the first day.<br/>4 Monday you get your apron -- free apron. You get<br/>5 free rubber gloves; you get three hair nets; three<br/>6 beard nets. That's for the week. Anything else<br/>7 you get after that you have to pay for it. Unless<br/>8 you working in live hang. Other than that,<br/>9 anywhere else you got to pay for it. They give it<br/>10 to you. And if you use all three of your hair nets<br/>11 that same day, if you go back up there and get<br/>12 another hair net, you have to pay for it. And<br/>13 cotton liners, they don't give you them free. You<br/>14 have to go pay for cotton liners whenever you have<br/>15 to go get cotton liners. Rubber gloves, they give<br/>16 you one pair. But if you go back, if you tear a<br/>17 hole in them the same day, you go back, you still<br/>18 have to pay for them. They don't give you nothing<br/>19 like that.<br/>20 Q. So you get the apron, the gloves, the<br/>21 liners, the hair net, the beard net, you get those<br/>22 on Monday?<br/>23 A. And sleeves, you get them free on</p> |

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1 Monday.  
 2 Q. And you also get a smock, don't you?  
 3 A. You got to get a smock.  
 4 Q. You get a smock every day, right?  
 5 A. You get a smock every day.  
 6 Q. What boots do you wear on these jobs?  
 7 A. Rubber boots.  
 8 Q. Did you get those from the company?  
 9 A. Yes.  
 10 Q. Are you required to get those boots  
 11 from the company?  
 12 A. Yes, sir. You can get them, but if  
 13 they -- if they clean up the locker and you have  
 14 your boots in your locker and they throw -- whoever  
 15 they got take your boots out and throw your boots  
 16 away, you got to turn around and buy your boots.  
 17 They won't give you a pair if somebody throw your  
 18 boots away. They have people that come in and  
 19 clean up the lockers on Fridays so they can spray.  
 20 And if you happen to leave your lock on that locker  
 21 or haven't cleaned your locker out, they going to  
 22 cut your lock and take your boots out -- whatever  
 23 in your locker, and throw it away. If it's your

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1 apron, whatever you got left in there, they throw  
 2 it all away. Then you got to turn around and pay  
 3 for it. You got to pay for all that stuff, and  
 4 they be the one to throw it away.  
 5 Q. If you leave it in your locker on  
 6 Friday?  
 7 A. If they leave it in the locker.  
 8 Q. And that's because they sanitize the  
 9 lockers over the weekend, correct?  
 10 A. Yes.  
 11 Q. And you're told to remove everything  
 12 from the your lockers on Friday, correct?  
 13 A. Yes.  
 14 Q. Are you permitted to purchase your  
 15 own boots for work?  
 16 A. Meaning?  
 17 MR. UNDERWOOD: From the company  
 18 or somebody else?  
 19 Q. (Mr. Fry) From somebody else?  
 20 A. No.  
 21 Q. You're not?  
 22 A. You can't wear nothing but boots that  
 23 they supply you.

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1 Q. Which of these items that you have  
 2 described for me are you permitted to wear from  
 3 home?  
 4 A. You can't wear none of them coming  
 5 from home. Only time you can put that equipment on  
 6 is when you coming into work. You can wear your  
 7 boots home, but you can't wear none of the other  
 8 stuff.  
 9 Q. You made reference to a locker. I  
 10 assume you store your things in a locker?  
 11 A. No, I take my boots home with me.  
 12 Q. What about the things that you get on  
 13 Monday -- the apron, the gloves, the sleeves, what  
 14 do you do with those?  
 15 A. I throw it away.  
 16 Q. Pardon?  
 17 A. I throw it away. See, I work in the  
 18 blood. When I work with the blood, that blood and  
 19 hot water, the gloves really don't last long, and  
 20 the cotton liners get wet. Other than that, I just  
 21 throw it away and get new stuff.  
 22 Q. You throw it away after every day?  
 23 A. After every day we get through

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1 working.  
 2 Q. So you get a new set of PPE every  
 3 single day?  
 4 A. Not every single day -- when I need  
 5 it. If I can spare my gloves or I can spare my  
 6 cotton liners, or whatever, I usually take them  
 7 back and get them. But whatever I need for that  
 8 next day, I get it.  
 9 Q. So you don't throw it away every day?  
 10 A. Not all of it. Sometimes I throw all  
 11 of it away and sometimes I throw some of it away.  
 12 Depends on what I can spare.  
 13 Q. The employees that work in the kill  
 14 room, the back dock, and live hang, are they all  
 15 considered to be employees of the live hang  
 16 department?  
 17 A. Well, if you in evis, you are  
 18 considered as a live hang employee because if they  
 19 need you there, if you have to go down, you will go  
 20 down there. They will send you down there. So you  
 21 really -- if wherever they need help in live hang,  
 22 if you got to be plucked off the floor in evis and  
 23 sent to the live hang, that's where you will be

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| <p style="text-align: right;">30</p> <p>1 sent.</p> <p>2 Q. You told me that you are considered</p> <p>3 to be an employee of the live hang department?</p> <p>4 A. That's the department code that they</p> <p>5 got me under.</p> <p>6 Q. Are all of the employees that work in</p> <p>7 the kill room, the back dock, and the live hang</p> <p>8 area coded to the live hang department?</p> <p>9 A. 6-KD.</p> <p>10 Q. Do you have your own break room?</p> <p>11 A. They have a live hang break room,</p> <p>12 yes.</p> <p>13 Q. Do you use it?</p> <p>14 A. Well, sometimes.</p> <p>15 Q. And the live hang break room is</p> <p>16 separate from the evis break room?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And it's separate from the debone</p> <p>19 break room?</p> <p>20 A. Yes, sir.</p> <p>21 Q. So the live hang break room is for</p> <p>22 the live hang folks?</p> <p>23 A. Yes, sir.</p>  | <p style="text-align: right;">32</p> <p>1 get food or wherever else you need, right?</p> <p>2 A. I go there -- if the machine is</p> <p>3 broke, I go there. But other than that, the</p> <p>4 quickest place I can get to to eat because you</p> <p>5 don't have as much time as it is.</p> <p>6 Q. It's up to you, right?</p> <p>7 A. Basically.</p> <p>8 Q. How many breaks do you get a day?</p> <p>9 A. Two.</p> <p>10 Q. Do you get two breaks whether you're</p> <p>11 working in kill, back dock, or live hang?</p> <p>12 A. Yes, sir.</p> <p>13 Q. How long are the breaks?</p> <p>14 A. 30 minutes.</p> <p>15 Q. Where do you take your breaks, any</p> <p>16 break room you want?</p> <p>17 A. I take it anywhere I want to, if the</p> <p>18 machines are working, anywhere I want to go at.</p> <p>19 Q. Do you drive to the plant?</p> <p>20 A. Yes.</p> <p>21 Q. What time do you generally arrive at</p> <p>22 the plant?</p> <p>23 A. About 5:10.</p>   |
| <p style="text-align: right;">31</p> <p>1 Q. And is it also for the back dock</p> <p>2 folks?</p> <p>3 A. Basically you can take your break</p> <p>4 wherever you want to take it. A lot of times the</p> <p>5 snack machines don't work back in the back dock, so</p> <p>6 you have to go to the other break room. Depends on</p> <p>7 what you want.</p> <p>8 Q. Where do you take your breaks?</p> <p>9 A. Like I said, if I go in the debone --</p> <p>10 if I go into the live hang break room if they ain't</p> <p>11 got what I need to eat or what I want to snack on,</p> <p>12 I go around to the evis break room. Like I said, a</p> <p>13 lot of times the machines be broke down. They take</p> <p>14 your money, or either before you put your money in</p> <p>15 there somebody tell you that it's taking your</p> <p>16 money, so you have to go around to the break room.</p> <p>17 Q. How often do you do that?</p> <p>18 A. Well, I can't say because I don't</p> <p>19 know how many times the machines be broke. A lot</p> <p>20 of times I go down to the debone break room because</p> <p>21 they got Hardee's. A place comes in and sells food</p> <p>22 there.</p> <p>23 Q. So you go to wherever you want to to</p> | <p style="text-align: right;">33</p> <p>1 Q. Do you have to clear security?</p> <p>2 A. As long as you got a sticker on -- a</p> <p>3 decal on your car, all you do is ride on through.</p> <p>4 Q. Have you ever been searched?</p> <p>5 A. No, sir.</p> <p>6 Q. What about when you leave, can you</p> <p>7 just drive off?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Have you ever been searched when you</p> <p>10 drive off?</p> <p>11 A. No, sir.</p> <p>12 Q. Tell me what you do when you get</p> <p>13 there in the morning at five o'clock.</p> <p>14 A. First thing I do is get out my car,</p> <p>15 go in, clock in, go to the --</p> <p>16 Q. Where do you clock in?</p> <p>17 A. I clock it in the evisceration break</p> <p>18 room -- and come around, go to my supply, get my</p> <p>19 supplies, go around to the back, have to walk back</p> <p>20 around to the back way to the go to the kill</p> <p>21 room -- I mean, live hang break room, then go back</p> <p>22 there and put my stuff on. Once I get my stuff on,</p> <p>23 I have to go in --</p> |

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| <p style="text-align: right;">34</p> <p>1 Q. Where do you put your stuff on?</p> <p>2 A. In the break room.</p> <p>3 Q. How long does it take you to put the</p> <p>4 stuff on?</p> <p>5 A. About seven or eight minutes.</p> <p>6 Q. Then what do you do?</p> <p>7 A. Then I go in and check to make sure</p> <p>8 if they release the kill room yet. If they haven't</p> <p>9 released the kill room yet, then I have to wait</p> <p>10 until they release it. Then I start setting the</p> <p>11 pickers once it's been released.</p> <p>12 Q. You mean the people that worked on</p> <p>13 the prior shift, is that what you're saying?</p> <p>14 A. What I'm saying is Sanitation has to</p> <p>15 clean it. If Sanitation done cleaned it, then you</p> <p>16 got USDA come in and inspect it. If they find</p> <p>17 something wrong, then they won't release it. I</p> <p>18 have to wait around until they release it, then I</p> <p>19 go in and set the pickers.</p> <p>20 Q. What time do you leave the live hang</p> <p>21 break room?</p> <p>22 A. What time do you mean I leave the</p> <p>23 break room?</p>            | <p style="text-align: right;">36</p> <p>1 been released for production?</p> <p>2 A. Well, I'm just making sure that the</p> <p>3 USDA has released it. Not Sanitation, just USDA.</p> <p>4 Q. Then what do you do?</p> <p>5 A. Start setting the pickers. I have to</p> <p>6 make sure the pickers, scalders, and everything,</p> <p>7 the temperature is right for the birds, and make</p> <p>8 sure that everything is right for them to pick.</p> <p>9 Q. And then what do you do?</p> <p>10 A. Then I wait for the birds to come</p> <p>11 through. When the birds come through, I reset the</p> <p>12 pickers if they not adjusted right.</p> <p>13 Q. When you go in and you do this</p> <p>14 preliminary work, check the pickers and check the</p> <p>15 room to make sure it's being released by USDA, is</p> <p>16 it your understanding you are paid for that time,</p> <p>17 or not?</p> <p>18 A. My time don't start until 5:30. And</p> <p>19 I get paid from 5:30 until three o'clock. But the</p> <p>20 time I go in there, I go in there to check it and</p> <p>21 make sure that everything is all right so I can</p> <p>22 start to work.</p> <p>23 Q. So you --</p>   |
| <p style="text-align: right;">35</p> <p>1 Q. After it takes you a few minutes to</p> <p>2 put your stuff on and your shift starts at 5:30, is</p> <p>3 that when you start doing your work?</p> <p>4 MR. UNDERWOOD: Object to the</p> <p>5 form. That assumes he leaves the same time every</p> <p>6 day.</p> <p>7 THE DEPONENT: No, I don't leave</p> <p>8 --</p> <p>9 MR. FRY: Leave where?</p> <p>10 MR. UNDERWOOD: The break room.</p> <p>11 You asked him what time he leaves the break room.</p> <p>12 You're making an assumption that he --</p> <p>13 Q. (Mr. Fry) What time do you leave the</p> <p>14 break room in the morning?</p> <p>15 A. I don't really know. All I know is I</p> <p>16 have to be in -- I go in before the time I have to</p> <p>17 start because I have to make sure that they</p> <p>18 release -- they supposed to release the kill room</p> <p>19 at least 20 minutes after. And I go in and make</p> <p>20 sure so when I go in there and start doing what I</p> <p>21 have to do.</p> <p>22 Q. So you have to go in and make sure</p> <p>23 that Sanitation has done its job and the room has</p> | <p style="text-align: right;">37</p> <p>1 A. And sometimes USDA may not start --</p> <p>2 they may not release it right then. And they might</p> <p>3 not release them until 5:30. They may release them</p> <p>4 before. You can't never say what time they are</p> <p>5 going to release. Sometimes they don't even check.</p> <p>6 Q. What time do you check to see whether</p> <p>7 USDA has released the room?</p> <p>8 A. I say I walk in and check -- I don't</p> <p>9 really look at the clock. As soon as I get through</p> <p>10 putting on my PPE, I go in and check to see. So I</p> <p>11 don't really look at the clock to see what time.</p> <p>12 It might be about 25 after, you know, five minutes</p> <p>13 before I have to go start to work.</p> <p>14 Q. Are you making a claim in this</p> <p>15 lawsuit for any of the time that you use to check</p> <p>16 the room to see if it's been released, or you are</p> <p>17 checking the pickers?</p> <p>18 A. From the time I come in to the time I</p> <p>19 start putting on my PPE and going into work and to</p> <p>20 the time I get off, that's what I want to get paid</p> <p>21 for.</p> <p>22 Q. So your answer is: Yes, you are?</p> <p>23 A. Yes.</p> |

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| <p style="text-align: right;">38</p> <p>1 Q. So you don't believe you're being<br/>2 paid when you're checking out the room?<br/>3 A. No, sir. Because I am going in<br/>4 before I check the room, before my time actually<br/>5 starts.<br/>6 Q. And you want to be paid for that time<br/>7 in this case?<br/>8 A. Yes, sir.<br/>9 Q. And you want to be paid for the time<br/>10 when you're checking the pickers as well?<br/>11 A. When I do the pickers, my time has<br/>12 started then.<br/>13 Q. It's already started?<br/>14 A. It's already started. I'm not<br/>15 checking them. I am setting them.<br/>16 Q. And that only happens after 5:30?<br/>17 A. After 5:30.<br/>18 Q. But you're making a claim for some<br/>19 pre-shift checking that you have to do of the room?<br/>20 A. It's from the time I come in and<br/>21 start putting the stuff on going in -- from the<br/>22 time I start doing all that, to the time I leave.<br/>23 Q. Tell me what you do in the beginning</p>  | <p style="text-align: right;">40</p> <p>1 Q. So every day you come to work you<br/>2 start in the kill department, and you may<br/>3 transition out to one of those other two areas; is<br/>4 that correct?<br/>5 A. Yes, sir.<br/>6 Q. When you're working in the kill room,<br/>7 or the back dock, or live hang, how do you know<br/>8 when it's time for you to go on your first break?<br/>9 A. Well, the guys at live hang, their<br/>10 line leader lets them know by hitting on the wall.<br/>11 That's how they go to break. I have my stopwatch<br/>12 what I look at. See, I don't go to break with them<br/>13 because I have to wash down, too. I wash down and<br/>14 everything. So I go to break by my clock.<br/>15 Whatever time I get through washing down, then<br/>16 that's when I go. Most of the time it be at nine<br/>17 o'clock when they come back. Whatever time they<br/>18 come back, then I go to break.<br/>19 Q. Tell me what you have to do to go on<br/>20 break.<br/>21 A. When I go to break, I go to the wall,<br/>22 take off my PPE, everything I have to take off.<br/>23 Then I go to -- from there, goes into the -- hang</p> |
| <p style="text-align: right;">39</p> <p>1 of the day when you come in and you're going to be<br/>2 working on the back dock.<br/>3 A. When I come in for the back dock -- I<br/>4 don't know when I have to work on the back dock.<br/>5 Everything I have to do is when I come in is first<br/>6 set the pickers. That's my first job out of all of<br/>7 it. Then if somebody is not coming in, then they<br/>8 will come and tell me -- Chris, you got to work on<br/>9 the back dock.<br/>10 Q. So is it fair to say that almost<br/>11 every morning when you come to work you start out<br/>12 doing what you do in the kill department?<br/>13 A. Yes, sir.<br/>14 Q. And you put on the items of clothing,<br/>15 or PPE as you put it, that you described for me?<br/>16 A. Yes, sir.<br/>17 Q. And then later it may happen during<br/>18 the day that you go to work on the back dock?<br/>19 A. Yes, sir.<br/>20 Q. And what about live hang, are there<br/>21 some days when you know when you come in you're<br/>22 going to start at live hang?<br/>23 A. No.</p> | <p style="text-align: right;">41</p> <p>1 it up. After I hang it up, I go to the live hang<br/>2 break room, wash down, because I have blood all<br/>3 over me, so I have to get the blood off of me and<br/>4 make sure ain't none up under my fingers or<br/>5 whatever. And then I leave from there, I go to the<br/>6 break room. The break room is right there with the<br/>7 bathroom. I come in, and if there's something in<br/>8 the machine that I want, I get it. But if the<br/>9 machine is not working, then I have to move<br/>10 further.<br/>11 MR. UNDERWOOD: He just asked you<br/>12 what you did before you went to the break. You are<br/>13 going into the break now. Let him handle it.<br/>14 MR. FRY: Go ahead. Keep going.<br/>15 MR. UNDERWOOD: We don't want you<br/>16 to ramble. We just want you to answer what he<br/>17 asks.<br/>18 THE DEPONENT: He said what I do.<br/>19 MR. UNDERWOOD: He said what do<br/>20 you do before you go to break.<br/>21 MR. FRY: You are doing fine.<br/>22 Just keep going.<br/>23 MR. UNDERWOOD: Let him ask his</p>   |



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| <p style="text-align: right;">42</p> <p>1 questions.</p> <p>2 Q. (Mr. Fry) You are in the break room.</p> <p>3 What do you do? If there are not machines</p> <p>4 available or they are not working, you go somewhere</p> <p>5 else, right? How much time do you spend either in</p> <p>6 the break room or looking for food in other break</p> <p>7 rooms?</p> <p>8 A. You already know what you want. They</p> <p>9 don't sell but chicken, so you go.</p> <p>10 MR. UNDERWOOD: Ain't that the</p> <p>11 truth.</p> <p>12 MR. FRY: That's shocking.</p> <p>13 Q. (Mr. Fry) Your break is over and you</p> <p>14 got to be back, tell me what you do.</p> <p>15 A. You have to come back early because</p> <p>16 you have to put on your PPE. Once you come back</p> <p>17 from break, put on your PPE, get ready for work.</p> <p>18 Q. And do you have to wash it?</p> <p>19 A. Well, your boots -- you sanitize your</p> <p>20 boots. You wash it if you have to. Most of the</p> <p>21 time you wash is when you leave or whatever,</p> <p>22 whichever the case may be. You have to wash it or</p> <p>23 you didn't wash before you came to break or you</p> | <p style="text-align: right;">44</p> <p>1 You might have to get out of the forklift and take</p> <p>2 a bird out the cage, and you get fecal on your</p> <p>3 boots, they don't want you tracking it inside the</p> <p>4 thing, so you have to wash your boots.</p> <p>5 Q. So what you're telling me is:</p> <p>6 Depending on what particular task you're performing</p> <p>7 on the back dock, you may or may not have to do any</p> <p>8 number of things to go on break, correct?</p> <p>9 A. Correct.</p> <p>10 Q. It's always different, correct? And</p> <p>11 you don't do the same thing consistently? Depends</p> <p>12 what vehicle or equipment you are operating?</p> <p>13 A. Yes, sir.</p> <p>14 Q. It's the end of the day. Tell me</p> <p>15 what you have to do to leave the plant.</p> <p>16 A. Wash down, make sure that you have it</p> <p>17 decent for the next shift to come in. When you get</p> <p>18 decent, get all that straightened out in the kill</p> <p>19 room, wherever you at, then you go in, you take off</p> <p>20 your PPE, you wash it down. If you want to save</p> <p>21 some of it, you save some of it. If you don't, you</p> <p>22 throw it away, and everything. And what you keep</p> <p>23 you wash it off and take it home with you. Or if</p> |
| <p style="text-align: right;">43</p> <p>1 wash it before you came to break, whichever.</p> <p>2 Q. So you have your choice, you can wash</p> <p>3 it either when you leave for break or when you come</p> <p>4 back from break?</p> <p>5 A. You can wash it both times if you</p> <p>6 want.</p> <p>7 Q. Or both times?</p> <p>8 A. Yes.</p> <p>9 Q. But you don't have to wash it both</p> <p>10 times?</p> <p>11 A. It's up to you. Your boots you have</p> <p>12 to wash both times when you come in or out.</p> <p>13 Q. When you're working on the back dock</p> <p>14 and it's break time, do you have to wash when you</p> <p>15 go on break from that job?</p> <p>16 A. Yes. Depends on what part you want</p> <p>17 to work in -- if you're working on the spotter</p> <p>18 truck, forklift drive -- which one you talking</p> <p>19 about?</p> <p>20 Q. Let's talk about when you're working</p> <p>21 on the forklift, do you have to wash off when you</p> <p>22 go on break?</p> <p>23 A. It depends on what you are doing.</p>  | <p style="text-align: right;">45</p> <p>1 you got a locker, put it in your locker. One of</p> <p>2 the two, whichever one you want to do -- take it</p> <p>3 home with you or put it in your locker. But you</p> <p>4 can't wear it outside.</p> <p>5 Q. How long does it take you to wash it</p> <p>6 and take it off?</p> <p>7 A. About seven or eight minutes.</p> <p>8 Q. And then what do you do?</p> <p>9 A. After I wash it or?</p> <p>10 Q. Yes, after you have washed it and</p> <p>11 taken it off.</p> <p>12 A. After you wash it and take it off, I</p> <p>13 go into the -- wash down, get stuff off of me, and</p> <p>14 then I go clock out.</p> <p>15 Q. Do you have any understanding, or</p> <p>16 what's your understanding as to the basis of which</p> <p>17 you're paid? How does the company keep track of</p> <p>18 the time for which you are paid?</p> <p>19 A. Just by your time card, your clock-in</p> <p>20 and clock-out time. And after -- the clock-out,</p> <p>21 clock-in time. Then your supervisor has a Master</p> <p>22 Card. Your supervisor goes in, regardless if you</p> <p>23 are working or not, at 2:50 or three o'clock --</p>   |

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| <p style="text-align: right;">46</p> <p>1 whatever time they got for your Master Card -- they</p> <p>2 clock it out then. If you still on the clock</p> <p>3 washing down and clean it up, it don't matter</p> <p>4 because 2:50 is -- your time cuts off at that time</p> <p>5 -- with live hang time cut off at that time.</p> <p>6 Q. So as a member of the live hang</p> <p>7 department, you are compensated on the basis of</p> <p>8 live time, the Master Card? Is that your</p> <p>9 understanding?</p> <p>10 A. My clock-out time is different, so at</p> <p>11 three o'clock my time clock cuts off. When I clock</p> <p>12 out at three o'clock, they pay me for the three</p> <p>13 o'clock, but live hang is 2:50 their time. My time</p> <p>14 is three o'clock. But when they get their time</p> <p>15 sheets, you have to write on your time sheet "paid</p> <p>16 to clock out hours", because that's the time I'm</p> <p>17 on, because I am not the same time. They 6-KD us</p> <p>18 from 5:50 in the morning to 2:50, so they have to</p> <p>19 write "pay the clock-out time" because my time is</p> <p>20 not set the same as theirs. But I am 6-KD still.</p> <p>21 Q. Did you review any documents before</p> <p>22 you came here to today to prepare yourself?</p> <p>23 A. No, sir.</p> | <p style="text-align: right;">48</p> <p>1 A. No, sir.</p> <p>2 Q. Have you ever complained to any</p> <p>3 supervisor or to payroll about any payroll issues?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And when was that?</p> <p>6 A. I can't remember when it was, but</p> <p>7 it's just that I was short a couple of hours on my</p> <p>8 check, and I --</p> <p>9 Q. Did they take care of it?</p> <p>10 A. They took care of it.</p> <p>11 MR. FRY: That's all I have.</p> <p>12 Thank you.</p> <p>13 MR. UNDERWOOD: Let's talk out</p> <p>14 here a minute.</p> <p>15 12:38 p.m.</p> <p>16 (Short break.)</p> <p>17 12:42 p.m.</p> <p>18 MR. UNDERWOOD: All right. I've</p> <p>19 got some follow-up for you.</p> <p>20</p> <p>21 EXAMINATION BY MR. UNDERWOOD:</p> <p>22 Q. When you were testifying for defense</p> <p>23 counsel, you mentioned that you were a supervisor</p>  |
| <p style="text-align: right;">47</p> <p>1 Q. Did you talk to anybody besides your</p> <p>2 lawyers?</p> <p>3 A. No, sir.</p> <p>4 Q. Have you kept track of the time that</p> <p>5 you've worked there for which you feel you should</p> <p>6 have been paid, but you weren't?</p> <p>7 A. No, sir.</p> <p>8 Q. Have you made any calculations as to</p> <p>9 the time that you worked there for which you feel</p> <p>10 that you should be paid?</p> <p>11 A. No, sir.</p> <p>12 Q. Have you on occasion been asked to</p> <p>13 work overtime?</p> <p>14 A. Yes, sir.</p> <p>15 Q. When you work overtime, are you paid</p> <p>16 time-and-a-half?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Have you ever had any complaints</p> <p>19 about your overtime compensation?</p> <p>20 A. What you mean, by the company?</p> <p>21 Q. Yes. Have you ever had any</p> <p>22 complaints about how your overtime pay was</p> <p>23 computed?</p>  | <p style="text-align: right;">49</p> <p>1 trainee; is that right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Tell me a little bit about what</p> <p>4 training that you received in regard to supervision</p> <p>5 out there. Tell me in particular did you receive</p> <p>6 any training related to the Master Card?</p> <p>7 A. Yes. Every evening when 2:50 came,</p> <p>8 you had to clock it right on 2:50 every evening.</p> <p>9 Q. What about the start time, did you</p> <p>10 have to clock the start time in the morning?</p> <p>11 A. No, we did have to start -- the</p> <p>12 clock-in time, we didn't have to do that. The only</p> <p>13 time we clocked-out the Master Card was when in the</p> <p>14 evening time, time we get off.</p> <p>15 Q. And you clocked the people out at</p> <p>16 2:50 regardless of whether they were still talking</p> <p>17 off their PPEs?</p> <p>18 A. That's what I was supposed to do,</p> <p>19 2:50.</p> <p>20 Q. And regardless of whether they were</p> <p>21 still actually doing work in the plant, you clocked</p> <p>22 them out at 2:50; is that right?</p> <p>23 A. Everybody at 2:50.</p> |

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| <p style="text-align: right;">50</p> <p>1 Q. How did they get clocked-in in the</p> <p>2 morning?</p> <p>3 A. They used their own card. Everybody</p> <p>4 is issued a time card, and they clocked their own</p> <p>5 self in.</p> <p>6 Q. How is that different than the</p> <p>7 attendance card if the individual clocked their</p> <p>8 self in? Do you know the difference?</p> <p>9 A. What happened is every day you check</p> <p>10 your time sheet. When they clock in, they clock</p> <p>11 in. When you go down the time sheets and you check</p> <p>12 and see if they are clocked-in a minute late or so</p> <p>13 many minutes late or early or whatever.</p> <p>14 Q. So what I'm understanding is as a</p> <p>15 supervisor, what you would do is check the sheet</p> <p>16 and see if they have clocked-in, and if they</p> <p>17 clocked-in early, they still only got their time on</p> <p>18 the line, right?</p> <p>19 A. They got the time 5:50. They have it</p> <p>20 set up where on the top of your paper you got the</p> <p>21 Master Card time, and the Master Card time is 5:50</p> <p>22 to 2:50. It's all the way down the sheet for the</p> <p>23 whole week. It lets you know.</p> | <p style="text-align: right;">52</p> <p>1 I'm not mistaken, it's verbal warning, written</p> <p>2 warning, one-day suspension, three-day suspension,</p> <p>3 even up to termination. So that's a follow-up of</p> <p>4 write-up that you get for each time that you don't</p> <p>5 have your -- it's basically anything you do, you</p> <p>6 have that decision to be wrote up, and it will</p> <p>7 cause you to be terminated for it.</p> <p>8 Q. If you get enough of these write-ups</p> <p>9 for not wearing your proper PPEs, can you get</p> <p>10 suspended for that?</p> <p>11 A. The first time you get suspended is a</p> <p>12 one-day suspension, and then after the one-day, you</p> <p>13 can get three-days suspension pending, and then</p> <p>14 after that it's up to the supervisor if they want</p> <p>15 to terminate you, but it's termination on the</p> <p>16 paper.</p> <p>17 Q. Is there anything that you learn in</p> <p>18 your supervisor training about how, if at all, the</p> <p>19 supervisors were to check to see if the employees</p> <p>20 were wearing the proper PPE?</p> <p>21 A. They walk around, and if they see you</p> <p>22 not wearing your ear plugs or whatever, they can</p> <p>23 write you up for that. If they ask you to let them</p> |
| <p style="text-align: right;">51</p> <p>1 Q. So the start time was automatic</p> <p>2 unless you looked at the sheet and they were a</p> <p>3 minute late, then they had a problem, didn't they?</p> <p>4 A. They got a minute took off for their</p> <p>5 time.</p> <p>6 Q. But if they went to work a minute</p> <p>7 early, they didn't get credit for that, right?</p> <p>8 A. Yes.</p> <p>9 MR. FRY: Objection.</p> <p>10 Q. (Mr. Underwood) Did you learn about</p> <p>11 any rules in your training as a supervisor in</p> <p>12 regard to safety?</p> <p>13 A. Everybody must wear their PPE at all</p> <p>14 times when you are in your work area. If you get</p> <p>15 caught without wearing your safety glasses or</p> <p>16 anything that's PPE that was supposed to be worn,</p> <p>17 you get wrote up.</p> <p>18 Q. And if you get written up, what</p> <p>19 ramification, or what does that cause to happen to</p> <p>20 the employee?</p> <p>21 A. They get a write-up sheet, and it has</p> <p>22 different sections in it, and it can cause you to</p> <p>23 get fired. You got your final warning, and then if</p>  | <p style="text-align: right;">53</p> <p>1 look at your boots and your boots are slick, they</p> <p>2 can write you up for that and tell you you need to</p> <p>3 go get some more boots. You don't have to pay for</p> <p>4 them, but you will get written up for it.</p> <p>5 Q. If their walking around the plant and</p> <p>6 if an employee is not wearing proper PPE, they can</p> <p>7 get written up on the spot?</p> <p>8 A. They can get written up on the spot.</p> <p>9 They have people walking around doing that,</p> <p>10 checking for safety, making sure that everybody has</p> <p>11 their safety equipment, PPE on.</p> <p>12 Q. And you-all are required if you are</p> <p>13 in the production area, you have to have your hair</p> <p>14 net on; is that right?</p> <p>15 A. It's a must. Hair net or beard net</p> <p>16 -- man or woman -- if you have facial hair, you got</p> <p>17 to have a beard net on.</p> <p>18 Q. If you don't have it on, the hair net</p> <p>19 or the beard net, you get written up; is that</p> <p>20 accurate?</p> <p>21 A. Yes, sir.</p> <p>22 Q. What about your gloves?</p> <p>23 A. Gloves is not necessarily being</p>  |



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| <p style="text-align: right;">54</p> <p>1 written up, but they will ask you to put them on.</p> <p>2 If you are handling the product, they want you to</p> <p>3 have gloves on.</p> <p>4 Q. Can you get written up for not</p> <p>5 wearing gloves?</p> <p>6 A. It depends on your supervisor.</p> <p>7 Q. But that's an option that you can get</p> <p>8 written up?</p> <p>9 A. Yes.</p> <p>10 Q. Is there anybody there that can write</p> <p>11 you up in the plant other than your supervisor?</p> <p>12 A. If I am not mistaken, your QAs and</p> <p>13 your HASA(sic). Scott comes in -- Scott Little,</p> <p>14 he's a safety trainer -- Scott Little and Harriet</p> <p>15 Wilson, they come through the plant and walk all</p> <p>16 outside checking to make sure everything is safe,</p> <p>17 and they can write you up.</p> <p>18 Q. And they can write you up for not</p> <p>19 wearing the proper PPE?</p> <p>20 A. PPE.</p> <p>21 Q. All right. Now in your training as a</p> <p>22 supervisor you had the opportunity to observe other</p> <p>23 areas of the plant; is that right?</p>  | <p style="text-align: right;">56</p> <p>1 refer to his job title as floater, Carl, and you</p> <p>2 know it. I said it is fair to characterize what</p> <p>3 you do as a floater.</p> <p>4 MR. UNDERWOOD: Let me rephrase</p> <p>5 that.</p> <p>6 Q. (Mr. Underwood) You are not a</p> <p>7 floater, are you?</p> <p>8 A. No, sir.</p> <p>9 Q. That's not your job title, is it?</p> <p>10 A. No, sir.</p> <p>11 Q. And actually you don't float to</p> <p>12 another area, it's actually a rotation to per what</p> <p>13 the plant needs for production; is that correct?</p> <p>14 A. Yes, sir.</p> <p>15 MR. FRY: Objection.</p> <p>16 Q. (Mr. Underwood) And you talked about</p> <p>17 being able to wear your boots home currently; is</p> <p>18 that right?</p> <p>19 A. Yes, sir.</p> <p>20 Q. You haven't always been able to wear</p> <p>21 those boots home, have you?</p> <p>22 A. No, sir.</p> <p>23 Q. Didn't that start about the last</p>   |
| <p style="text-align: right;">55</p> <p>1 A. Yes, sir.</p> <p>2 Q. When you were observing the other</p> <p>3 areas of the plant and when you are working in your</p> <p>4 area in live kill, have you ever observed other</p> <p>5 employees rotate to other areas if they were</p> <p>6 needed?</p> <p>7 A. Yes, they have to work -- I had a lot</p> <p>8 of them have to come from evis. I had some come</p> <p>9 from debone. If they were shortanded in live</p> <p>10 hang, you tell your superintendent. Your</p> <p>11 superintendent would get in touch with your shift</p> <p>12 manager, and he would call and tell Vickie Whitley,</p> <p>13 or anybody, whoever that had spare people, to send</p> <p>14 them over there -- they need help in live hang.</p> <p>15 Basically that's where it be at mostly, in live</p> <p>16 hang.</p> <p>17 Q. Would the rotation be based on</p> <p>18 production needs, would that be right?</p> <p>19 A. Yes, sir.</p> <p>20 Q. I know that defense counsel referred</p> <p>21 to your job title as a potential floater, but</p> <p>22 that's not actually your job title, is it?</p> <p>23 MR. FRY: Objection. I didn't</p> | <p style="text-align: right;">57</p> <p>1 year, year and a half?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And before that you could not wear</p> <p>4 those boots home?</p> <p>5 A. No, sir.</p> <p>6 Q. You talked about when you go on your</p> <p>7 break about washing your apron; is that right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And you state if you wash it before,</p> <p>10 you might not wash it when you come back?</p> <p>11 A. Yes, sir.</p> <p>12 Q. However, has there ever been occasion</p> <p>13 where you have washed it and then come back and</p> <p>14 noticed something on it and washed it again?</p> <p>15 A. You have to wash it. Sometimes when</p> <p>16 you wash it down, blood might splatter on your</p> <p>17 apron, and then you have to wash it off again</p> <p>18 before you put it on.</p> <p>19 Q. And that would be required; is that</p> <p>20 accurate?</p> <p>21 A. Yes, sir.</p> <p>22 Q. In your training when you were in</p> <p>23 supervisor training, did you have some training in</p> |

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| <p style="text-align: right;">58</p> <p>1 quality control?</p> <p>2 A. I have worked with quality control,</p> <p>3 with HASA(sic). I worked with HASA(sic).</p> <p>4 Q. Did you have any training on what was</p> <p>5 required for the employees to wear to protect the</p> <p>6 product?</p> <p>7 A. You have to wear your safety gloves,</p> <p>8 your gloves. Any time you touch the product, you</p> <p>9 have to have gloves on. Inspect it, wash it off --</p> <p>10 whatever you needed to do to make the product clean</p> <p>11 so it can get out, so they can it.</p> <p>12 Q. I know you mentioned that you did</p> <p>13 your boots, you sanitized them coming out of break?</p> <p>14 A. In and out.</p> <p>15 Q. Do you sanitize your boots at the</p> <p>16 beginning of the day as well?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Do you sanitize them at the end of</p> <p>19 the day?</p> <p>20 A. Yes, sir.</p> <p>21 Q. You mentioned in your testimony to</p> <p>22 defense counsel that if you don't wear your cloth</p> <p>23 sleeves, you will get a rash; is that accurate?</p> | <p style="text-align: right;">60</p> <p>1 period?</p> <p>2 A. Yes, sir. I was offered the</p> <p>3 supervisor job.</p> <p>4 Q. And why did you turn it down?</p> <p>5 A. The pay.</p> <p>6 Q. Now, you indicated that in response</p> <p>7 to one of Mr. Underwood's questions -- I forget</p> <p>8 what exactly it was, but I heard you say that</p> <p>9 gloves are not necessary. Do you recall that?</p> <p>10 A. Cotton liners.</p> <p>11 Q. Cotton liners. So when you were</p> <p>12 going through your supervisory training and you</p> <p>13 were instructed about PPE, there was --</p> <p>14 COURT REPORTER: Could we hold on</p> <p>15 for just a minute? I am having an issue with my</p> <p>16 software.</p> <p>17 12:51 p.m.</p> <p>18 (Short break.)</p> <p>19 12:54 p.m.</p> <p>20 Q. (Mr. Fry) So it depends on the job,</p> <p>21 there are certain items which are required,</p> <p>22 required items of PPE, correct?</p> <p>23 A. Yes, sir.</p>   |
| <p style="text-align: right;">59</p> <p>1 A. Well, what it does it -- some people</p> <p>2 wear them, some people used to wear them. But what</p> <p>3 it does -- in live hang -- that is where they do it</p> <p>4 -- they put it on because the sweat and the heat</p> <p>5 from the sleeves, the plastic sleeves they put on,</p> <p>6 they cause some people to have a rash. Some</p> <p>7 people's skin is different than others, and it</p> <p>8 causes them to break out in rashes on their arms</p> <p>9 and stuff.</p> <p>10 Q. In your activity in training and in</p> <p>11 your experience with HASA(sic) and quality control,</p> <p>12 could they write-up for not wearing your PPE?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay.</p> <p>15 MR. UNDERWOOD: That's all I</p> <p>16 have.</p> <p>17 MR. FRY: Just a few, Mr. Laster.</p> <p>18</p> <p>19 EXAMINATION BY MR. FRY:</p> <p>20 Q. How long was your supervisory</p> <p>21 training period?</p> <p>22 A. Anywhere from six to seven months.</p> <p>23 Q. And did you complete the entire</p>                                      | <p style="text-align: right;">61</p> <p>1 Q. And there are certain other items</p> <p>2 that are optional?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Depending on the job?</p> <p>5 A. Just basically the cotton liners, and</p> <p>6 like you said certain materials that's optional if</p> <p>7 you want to.</p> <p>8 Q. And the sleeves are optional to you,</p> <p>9 are they not?</p> <p>10 A. Well, I put them on because of the</p> <p>11 blood and stuff on me.</p> <p>12 Q. But they are optional, are they not?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And people who are not using knives</p> <p>15 are not required to wear plastic arm guards, are</p> <p>16 they?</p> <p>17 A. They have to have the arm guards.</p> <p>18 Q. If they have --</p> <p>19 A. If they use -- anybody using knives</p> <p>20 or scissors requires an arm guard. You got to have</p> <p>21 an arm guard and a chain glove on at all times.</p> <p>22 Q. Listen to my question. People who</p> <p>23 are not handling knives, people who are not</p> |

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| <p style="text-align: right;">62</p> <p>1 handling scissors, they are not required to wear</p> <p>2 the arm guards, are they?</p> <p>3 A. No, sir.</p> <p>4 Q. When you are out driving a forklift</p> <p>5 in the back area, when you are on the back dock,</p> <p>6 you are not required to wear certain items, are</p> <p>7 you?</p> <p>8 A. Yes, sir.</p> <p>9 Q. What items aren't you required to</p> <p>10 wear?</p> <p>11 A. Depends on your person. Some people</p> <p>12 like to wear their smocks while they're in the</p> <p>13 lift, they like to wear the gloves, their cotton</p> <p>14 liners.</p> <p>15 Q. It's up to you in that particular</p> <p>16 position, correct? So it varies from position to</p> <p>17 position over the plant, correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. You were asked some questions about</p> <p>20 what you were taught about writing up employees.</p> <p>21 Were you told that every single instance of an</p> <p>22 employee not having an ear plug in you should write</p> <p>23 them up?</p>  | <p style="text-align: right;">64</p> <p>1 Q. So you swipe the card at 2:50, they</p> <p>2 are walking off the line, and they are in the</p> <p>3 process of taking off their PPE, correct?</p> <p>4 MR. UNDERWOOD: I'm going to</p> <p>5 object to that. He did not state that.</p> <p>6 MR. FRY: I'm asking him if it's</p> <p>7 correct.</p> <p>8 MR. UNDERWOOD: Okay.</p> <p>9 Q. (Mr. Fry) When the supervisor swipes</p> <p>10 his card at 2:55 --</p> <p>11 A. 2:50.</p> <p>12 Q. What's going on on the line?</p> <p>13 A. At 2:50 they get off the line, they</p> <p>14 go out, take off their PPE and wash down, and go</p> <p>15 clock out.</p> <p>16 Q. When you receive that instruction and</p> <p>17 you were -- you were observing this, correct?</p> <p>18 A. No. Once I clocked them out, I had</p> <p>19 to go to paperwork.</p> <p>20 Q. No, no. He asked you whether you saw</p> <p>21 this. He asked you in your supervisory training</p> <p>22 whether you were instructed as part of your</p> <p>23 training on swiping the Master Card. Did you</p> |
| <p style="text-align: right;">63</p> <p>1 A. Well, first you warn them. And once</p> <p>2 you warn them, if you catch them again, then you</p> <p>3 write them up.</p> <p>4 Q. So there's a warning?</p> <p>5 A. It's up to you if you want to warn</p> <p>6 them or not. You can write them up on the spot or</p> <p>7 you can warn them. It's up to you.</p> <p>8 Q. He asked you some questions about the</p> <p>9 Master Card instructions that you received, and he</p> <p>10 asked you at the end of the day when the supervisor</p> <p>11 swipes the Master Card about what was going on on</p> <p>12 the production line. Do you recall that?</p> <p>13 A. Yes.</p> <p>14 Q. And I think he asked you -- isn't it</p> <p>15 true that at that point in time people were still</p> <p>16 working when the Master Card was swiped. Is that</p> <p>17 correct?</p> <p>18 A. They still doing their PPE is what</p> <p>19 they are doing. When you swipe your card, they</p> <p>20 still doing the PPE. And basically it's up to you</p> <p>21 to know where your work is at. If you swipe that</p> <p>22 card, they doing -- it's 2:50. They just now</p> <p>23 walking off the line.</p> | <p style="text-align: right;">65</p> <p>1 receive instructions on that?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And did you actually stand there at</p> <p>4 2:50 when the Master Card was swiped?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And where were you when that</p> <p>7 happened?</p> <p>8 A. Where was I at?</p> <p>9 Q. What department were you in?</p> <p>10 A. I was in the evis break room.</p> <p>11 Q. You were in the evis break room?</p> <p>12 A. Yes.</p> <p>13 Q. And that's where the Master Card is</p> <p>14 swiped?</p> <p>15 A. Yes. Right now they changed it.</p> <p>16 It's not in there. It's in the -- well, the time</p> <p>17 when I was doing it, it was in the break room.</p> <p>18 Q. I want to focus my questions on that</p> <p>19 period of time when you received supervisory</p> <p>20 training, that period of time that Mr. Underwood</p> <p>21 was questioning you about.</p> <p>22 A. All right.</p> <p>23 Q. You received training on Master Card</p>   |

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| <p style="text-align: right;">66</p> <p>1 procedures, correct?</p> <p>2 A. Well, what I was told was at 2:50,</p> <p>3 always clock the time card off at 2:50.</p> <p>4 Q. Okay. That's what you were told. He</p> <p>5 asked you what you observed, I believe.</p> <p>6 MR. UNDERWOOD: I don't think I</p> <p>7 did.</p> <p>8 Q. (Mr. Fry) Okay. So you were simply</p> <p>9 receiving oral instructions on the Master Card</p> <p>10 swiping; is that correct?</p> <p>11 A. When I first took the job, they told</p> <p>12 me to make sure that you clock the time card out at</p> <p>13 2:50.</p> <p>14 Q. When you receive that instruction,</p> <p>15 you were not cognizant, you weren't aware of what</p> <p>16 was going on on the production floor, were you,</p> <p>17 because you weren't actually swiping the card?</p> <p>18 MR. UNDERWOOD: Object to the</p> <p>19 form. He has already testified from previous</p> <p>20 experience he knows what's going on on the</p> <p>21 production line because he's been involved in it.</p> <p>22 Q. (Mr. Fry) Answer my question now.</p> <p>23 When you were receiving the supervisory training</p> | <p style="text-align: right;">68</p> <p>1 Q. When you were receiving this</p> <p>2 instruction, you weren't out at the card swipe</p> <p>3 location, were you?</p> <p>4 A. This was earlier during while</p> <p>5 production was running.</p> <p>6 Q. When you were receiving the</p> <p>7 instruction, did you ever go with the supervisor at</p> <p>8 the end of the day when he swiped the Master Card?</p> <p>9 A. I had my own Master Card. They</p> <p>10 swiped out a different time than I swiped out. I</p> <p>11 was the first one to have to swipe out.</p> <p>12 Q. When were you swiping the Master</p> <p>13 Card?</p> <p>14 A. At 2:50.</p> <p>15 Q. At 2:50?</p> <p>16 A. Yes, sir.</p> <p>17 Q. For what department?</p> <p>18 A. 6-KD.</p> <p>19 Q. And where was the location that you</p> <p>20 swiped that card at?</p> <p>21 A. Evis break room.</p> <p>22 Q. From the evis break room, what can</p> <p>23 you observe of what's going on out in the live</p>  |
| <p style="text-align: right;">67</p> <p>1 instruction and you were told that at 2:50 the</p> <p>2 Master Card is swiped, you weren't on an actual</p> <p>3 line observing what was happening, were you?</p> <p>4 A. What you saying on the line? What</p> <p>5 you saying where I was working at?</p> <p>6 Q. Yes.</p> <p>7 A. I went and swiped the card out at</p> <p>8 2:50 and walked back down. You could see them</p> <p>9 coming out of live hang.</p> <p>10 Q. Where did you receive this</p> <p>11 instruction?</p> <p>12 A. In the evis office.</p> <p>13 Q. The Master Card instruction that you</p> <p>14 received was in the evis office?</p> <p>15 A. Well, the instruction I was told by</p> <p>16 another supervisor to make sure is that you clock</p> <p>17 out at 2:50 because if you don't do that, then you</p> <p>18 can get wrote up for it.</p> <p>19 Q. You were instructed that that was the</p> <p>20 proper procedure, correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And you received this in an office?</p> <p>23 A. Yes, sir.</p>   | <p style="text-align: right;">69</p> <p>1 hang, or the kill room, anything?</p> <p>2 A. Once you swipe it, you don't see</p> <p>3 nothing. But when you walk right out the back</p> <p>4 door, it's right there. That's where they come out</p> <p>5 at, the back door back there. So the same door you</p> <p>6 come in -- you up there before they even leave. So</p> <p>7 you go swipe the card -- you be there before 2:50</p> <p>8 to make sure that you clock in and out, and then</p> <p>9 you walk right out. Then you can see everybody</p> <p>10 coming out as you walk through the door.</p> <p>11 MR. FRY: That's all. Thanks.</p> <p>12 MR. UNDERWOOD: Just one</p> <p>13 question.</p> <p>14</p> <p>15 EXAMINATION BY MR. UNDERWOOD:</p> <p>16 Q. When you observed them after you</p> <p>17 swiped them out and you saw the live kill employees</p> <p>18 coming to the door, were they still in their PPE?</p> <p>19 A. They come out with their PPE off, and</p> <p>20 then they take it off on the outside.</p> <p>21 1:02 p.m.</p> <p>22 *****</p> <p>23 FURTHER DEPONENT SAITH NOT</p> |

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## 1 CERTIFICATE

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STATE OF ALABAMA

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AT LARGE

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I hereby certify that the above  
and foregoing deposition was taken down by me in  
stenotype and the questions and answers thereto  
were transcribed by means of computer-aided  
transcription and that the foregoing represents a  
true and correct transcript of the testimony given  
by said witness upon said deposition.

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Victoria M. Castillo, Certified Court Reporter

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ACCR# 17, Expires 9/30/2008

Commissioner and Notary Public

**TAB 34**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner

and Certified Court Reporter

DEPOSITION TESTIMONY OF

ARTAVOUS MAHONE

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of ARTAVOUS MAHONE</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 22nd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-34</p> <p>4   MR. CAMP                 34-37</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   (No exhibits were</p> <p>8   submitted to said deposition.)</p> <p>9</p> <p>10   Reporter's Certificate           38</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. ROBERT J. CAMP</p> <p>5       THE COCHRAN FIRM, P.C.</p> <p>6       ATTORNEYS AT LAW</p> <p>7       505 North 20th Street</p> <p>8       Suite 825</p> <p>9       Birmingham, Alabama 35203</p> <p>10       (205)244-1115</p> <p>11</p> <p>12   ON BEHALF OF THE DEFENDANT:</p> <p>13       MR. MALCOLM S. GOULD</p> <p>14       PELINO &amp; LENTZ</p> <p>15       ATTORNEYS AT LAW</p> <p>16       One Liberty Place</p> <p>17       Thirty-Second Floor</p> <p>18       1650 Market Street</p> <p>19       Philadelphia, Pennsylvania 19103</p> <p>20       (215) 665-1540</p> <p>21</p> <p>22</p> <p>23   *****</p> |



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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified<br/> 2 Court Reporter of Eufaula, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at the Law Offices of WILLIAMS,<br/> 7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange<br/> 8 Avenue, Eufaula, Alabama 36027, beginning at<br/> 9 10:55 a.m., ARTAVOUS MAHONE, witness in the above<br/> 10 cause, for oral examination, whereupon the<br/> 11 following proceedings were had:<br/> 12<br/> 13 ARTAVOUS MAHONE,<br/> 14 being first duly sworn, was examined and<br/> 15 testified as follows:<br/> 16<br/> 17 THE COURT REPORTER: Usual<br/> 18 stipulations?<br/> 19 MR. CAMP: Yes.<br/> 20 MR. GOULD: Yes.<br/> 21<br/> 22 EXAMINATION<br/> 23 BY MR. GOULD:</p>   | <p style="text-align: right;">8</p> <p>1 ask a question and you don't understand what I'm<br/> 2 asking or you don't understand the question, just<br/> 3 let me know; I'll repeat the question or try and<br/> 4 ask the question differently so it's not<br/> 5 confusing.<br/> 6 I don't anticipate that the deposition will<br/> 7 take long; but if for any reason you feel you need<br/> 8 to take a break, just let me know and we can<br/> 9 certainly take a break. Okay?<br/> 10 A. Okay.<br/> 11 Q. Can you please state your full name for the<br/> 12 record?<br/> 13 A. Artavous Jermaine Mahone.<br/> 14 Q. And, Mr. Mahone, what is your home address?<br/> 15 A. 430 Thompson Street, Union Springs, Alabama.<br/> 16 Q. Mr. Mahone, are you currently employed?<br/> 17 A. No.<br/> 18 Q. Did you previously work at the processing<br/> 19 plant in Baker Hill, Alabama?<br/> 20 A. No.<br/> 21 Q. Have you worked for Equity Group Eufaula<br/> 22 Division at the chicken processing plant?<br/> 23 A. Yes.</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good morning, Mr. Mahone. My name is<br/> 2 Malcolm Gould. I'm an attorney from the law firm<br/> 3 of Pelino &amp; Lentz in Philadelphia. We represent<br/> 4 Equity Group Eufaula Division, LLC, in a lawsuit<br/> 5 filed in Federal Court in the Middle District of<br/> 6 Alabama. You are a plaintiff in that lawsuit and<br/> 7 we're here today to take your deposition. I'm<br/> 8 going to ask you questions, and hopefully you're<br/> 9 going to have answers for my questions.<br/> 10 As you can see, we have a court reporter<br/> 11 here. She's going to take down my questions and<br/> 12 your answers. For that reason, I would ask that<br/> 13 you keep all of your responses verbal. If you'll<br/> 14 say yes or no instead of nodding your head or<br/> 15 shaking your head, or instead of an uh-huh or a<br/> 16 huh-uh, things should move a bit little more<br/> 17 smoothly.<br/> 18 I would also ask that you wait until I<br/> 19 finish my question before you start your answer.<br/> 20 That way we're not talking over each other. It's<br/> 21 much easier for the court reporter to take<br/> 22 everything down.<br/> 23 If, during the course of the deposition, I</p> | <p style="text-align: right;">9</p> <p>1 Q. The one that's over in Baker Hill?<br/> 2 A. Yes.<br/> 3 Q. And when was the last time you worked there?<br/> 4 A. It was in 2007.<br/> 5 Q. Do you know what month?<br/> 6 A. No.<br/> 7 Q. And how long did you work at the plant?<br/> 8 A. About six months.<br/> 9 Q. In what position did you work?<br/> 10 A. In DSI.<br/> 11 Q. Did you work in that particular position the<br/> 12 entire time you were employed at the plant?<br/> 13 A. No.<br/> 14 Q. What other positions did you work in?<br/> 15 A. I was in packout and debone and in the box<br/> 16 room.<br/> 17 Q. When you say you worked in debone, did you<br/> 18 work on one of the debone lines?<br/> 19 A. No.<br/> 20 Q. Where did you work?<br/> 21 A. Packing it once it come off the line.<br/> 22 Q. Where were you employed right before you<br/> 23 worked at the chicken processing plant? Or were</p>   |

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| <p style="text-align: right;">10</p> <p>1 you employed?</p> <p>2 A. Yeah, but I can't remember.</p> <p>3 Q. Okay. Now, you understand that you are a</p> <p>4 plaintiff in this lawsuit, correct?</p> <p>5 A. Yes.</p> <p>6 Q. What is your understanding as to what the</p> <p>7 lawsuit is about?</p> <p>8 A. What is my understanding?</p> <p>9 Q. Yes, sir.</p> <p>10 A. It's going to be not getting paid for the</p> <p>11 hours that we put in, all the hours that we</p> <p>12 worked.</p> <p>13 Q. Can you give me some examples of time that</p> <p>14 you feel you worked for which you were not paid?</p> <p>15 A. When we'd get ready to put on our equipment</p> <p>16 and getting on the line.</p> <p>17 Q. Anything else?</p> <p>18 A. No.</p> <p>19 Q. So your understanding is that this lawsuit</p> <p>20 is about time spent putting on and taking off</p> <p>21 equipment; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Are there any other claims that you believe</p> | <p style="text-align: right;">12</p> <p>1 Q. During the time that you were at the plant,</p> <p>2 were you a member of the union?</p> <p>3 A. Not that I can recall.</p> <p>4 Q. Did you ever attend any union meetings?</p> <p>5 A. No.</p> <p>6 Q. Other than meeting with your attorneys, have</p> <p>7 you ever attended any meetings where the claims in</p> <p>8 this lawsuit were discussed?</p> <p>9 A. Repeat that.</p> <p>10 Q. Other than meeting with your attorneys, have</p> <p>11 you ever attended any meetings where this lawsuit</p> <p>12 or the claims in this lawsuit were discussed?</p> <p>13 A. No.</p> <p>14 Q. When your employment ended with the chicken</p> <p>15 processing plant, were you terminated or did you</p> <p>16 resign?</p> <p>17 A. I resigned.</p> <p>18 Q. And what was the reason for your</p> <p>19 resignation?</p> <p>20 A. To get a better job.</p> <p>21 Q. Okay. I'm going to ask you some questions</p> <p>22 about some of the different positions in which you</p> <p>23 worked. And unless I tell you differently, we're</p> |
| <p style="text-align: right;">11</p> <p>1 you are asserting in this lawsuit?</p> <p>2 A. Not besides not getting paid for the hours</p> <p>3 that we worked.</p> <p>4 Q. During the time that you worked at the</p> <p>5 plant, what shift did you work?</p> <p>6 A. Second.</p> <p>7 Q. That would be night shift?</p> <p>8 A. Yes.</p> <p>9 Q. And did you work that shift the entire time</p> <p>10 you were employed at the plant?</p> <p>11 A. Yes.</p> <p>12 Q. Did you have a scheduled start time?</p> <p>13 A. Yes.</p> <p>14 Q. And what was that?</p> <p>15 A. 4:15.</p> <p>16 Q. And was that the same for each of the</p> <p>17 different positions that you worked?</p> <p>18 A. Yes.</p> <p>19 Q. Did you have a scheduled end time?</p> <p>20 A. No.</p> <p>21 Q. So you would just work until the production</p> <p>22 was done for that day?</p> <p>23 A. Yes.</p>  | <p style="text-align: right;">13</p> <p>1 just going to talk about one position at a time.</p> <p>2 So the first thing I'd like to ask you about is</p> <p>3 your employment in DSI.</p> <p>4 How long did you work in DSI?</p> <p>5 A. I worked in DSI the whole time I was there.</p> <p>6 Q. Now, you also indicated that you worked in</p> <p>7 packout?</p> <p>8 A. Yes.</p> <p>9 Q. How often would you work in packout?</p> <p>10 A. Two, three days out of a week.</p> <p>11 Q. And you also indicated that you would work</p> <p>12 in the box room; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. How long did you work in the box room?</p> <p>15 A. A day out of the week.</p> <p>16 Q. And you also indicated that you would work</p> <p>17 on the debone line packing up the meat; is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And how often would you do that?</p> <p>21 A. Like, a day out of a week.</p> <p>22 Q. And how often would you work on DSI?</p> <p>23 A. It's like, with DSI, somebody like the</p>                                      |

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| <p style="text-align: right;">14</p> <p>1 packout and the debone, if someone's not coming to<br/> 2 work, they'd move me to their position. So I<br/> 3 can't just tell you like that.<br/> 4 Q. So you would normally work in DSI unless<br/> 5 they needed you on another position?<br/> 6 A. Yes.<br/> 7 Q. Now, your working on the debone line, did<br/> 8 that involve the use of a knife?<br/> 9 A. No.<br/> 10 Q. Or did you use scissors?<br/> 11 A. No.<br/> 12 Q. Okay. During the time that you were<br/> 13 employed at the plant, did you have to wear any<br/> 14 items of clothing or equipment while you were out<br/> 15 on the production floor?<br/> 16 A. Equipment.<br/> 17 Q. Okay. Can you list those for me, please?<br/> 18 A. Apron, smock, sleeves, your cotton liners,<br/> 19 your plastic gloves, earplugs, hair net and mask,<br/> 20 boots.<br/> 21 Q. Did you have to wear a hard plastic arm<br/> 22 guard?<br/> 23 A. No.</p> | <p style="text-align: right;">16</p> <p>1 A. Yes.<br/> 2 Q. Did you normally drive yourself to work?<br/> 3 A. Yes.<br/> 4 Q. When you were arriving at the plant, did you<br/> 5 have to clear any security?<br/> 6 A. Yes.<br/> 7 Q. Can you describe that for me?<br/> 8 A. Well, it was not clearing security. Just,<br/> 9 if you didn't have a sticker in your window, they<br/> 10 would give you this card to hang up. Then you<br/> 11 would go and park. But I had a sticker, so I<br/> 12 could just drive straight through.<br/> 13 Q. So as long as you had your sticker, you<br/> 14 didn't have to stop at the security gate?<br/> 15 A. Right. And if you didn't, you had to stop.<br/> 16 Q. After you would park in the parking lot, was<br/> 17 there any other security that you had to clear<br/> 18 before entering the plant?<br/> 19 A. No.<br/> 20 Q. There were no metal detectors or turnstiles?<br/> 21 A. No.<br/> 22 Q. Now, during the time that you worked at the<br/> 23 plant, were you able to wear your boots from home</p> |
| <p style="text-align: right;">15</p> <p>1 Q. Did you have to wear safety glasses?<br/> 2 A. Yes.<br/> 3 Q. Now, you indicated that you wore a mask; is<br/> 4 that correct?<br/> 5 A. Yes.<br/> 6 Q. Can you describe that mask for me?<br/> 7 A. It's a long string, like a rubber band; you<br/> 8 just put it on your face.<br/> 9 Q. It was like some sort of paper or felt?<br/> 10 A. It covers your nose down to your chin.<br/> 11 Q. It was made out of paper or felt material?<br/> 12 A. Yes, paper.<br/> 13 Q. Did you have to wear that mask in each of<br/> 14 the positions in which you worked?<br/> 15 A. Yes.<br/> 16 Q. All right. And did you wear each of these<br/> 17 items that you've listed for me in each position<br/> 18 in which you worked?<br/> 19 A. Yes.<br/> 20 Q. Did you also have to wear a beard net?<br/> 21 A. That's why I wore the mask.<br/> 22 Q. Okay. So you wore a mask instead of a beard<br/> 23 net?</p>       | <p style="text-align: right;">17</p> <p>1 if you chose?<br/> 2 A. Yes.<br/> 3 Q. And you could wear your boots outside?<br/> 4 A. Yes.<br/> 5 Q. During the time that you worked at the<br/> 6 plant, would you take items home with you at the<br/> 7 end of your shift and then bring them back at the<br/> 8 beginning of your shift?<br/> 9 A. Your equipment. Because you done bought it,<br/> 10 so you're going take it home with you.<br/> 11 Q. So would you take all of the items that you<br/> 12 listed for me previously, would you take them home<br/> 13 with you?<br/> 14 A. Yes.<br/> 15 Q. Are there some items that you would replace<br/> 16 each day?<br/> 17 A. The plastic gloves.<br/> 18 Q. Once you arrived at the plant and you<br/> 19 entered the building, can you describe for me what<br/> 20 you would normally do?<br/> 21 A. You would go in and you would go to the<br/> 22 supply room or the supply line and wait in line<br/> 23 and get some material. And then you go and clock</p>                                    |

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| <p style="text-align: right;">18</p> <p>1 in and go to the back and get ready to put your<br/>2 equipment on.<br/>3 Q. At what time would you normally arrive at<br/>4 the plant?<br/>5 A. 3:30.<br/>6 Q. Did you normally arrive at the same time<br/>7 every day?<br/>8 A. Yes.<br/>9 Q. Now, I think you indicated that when you<br/>10 entered the plant you would first go to the supply<br/>11 room; is that correct?<br/>12 A. Yes.<br/>13 Q. And would you go to the supply room every<br/>14 day?<br/>15 A. Yes.<br/>16 Q. And what would you get at the supply room?<br/>17 A. If you need an apron, you get an apron; you<br/>18 need gloves, you get gloves. But every day you've<br/>19 got to go get the cotton liners. So regardless,<br/>20 you're going to get in that line.<br/>21 Q. Did you have to get a smock at the supply<br/>22 room?<br/>23 A. Yes.</p> | <p style="text-align: right;">20</p> <p>1 room; is that where you would clock in?<br/>2 A. It's big; but it ain't big for real, because<br/>3 you've got over a thousand people in there.<br/>4 Q. Then after you would clock in, what would<br/>5 you do?<br/>6 A. Go to the back and get ready to put that<br/>7 equipment on so you could try to get on the line<br/>8 on time.<br/>9 Q. Would you be wearing your boots already?<br/>10 A. Yes.<br/>11 Q. Would you wear your boots in from the<br/>12 parking lot?<br/>13 A. Put them on in the break room.<br/>14 Q. Would you do that before or after you<br/>15 clocked in?<br/>16 A. When I clocked in.<br/>17 Q. So is that after you clocked in or before<br/>18 you clocked in?<br/>19 A. When I clocked in.<br/>20 Q. So you would put on your boots and clock in<br/>21 at the same time?<br/>22 A. No. You said: When did you put on your<br/>23 boots? before or after you clocked in?</p>  |
| <p style="text-align: right;">19</p> <p>1 Q. And you said you would get cotton liners<br/>2 every day?<br/>3 A. Yes.<br/>4 Q. And then other items you would get if you<br/>5 needed new ones?<br/>6 A. Yeah. You would buy them.<br/>7 Q. Would you get a new apron every day?<br/>8 A. No.<br/>9 Q. Would you get new rubber gloves every day?<br/>10 A. Yes.<br/>11 Q. And after you went to the supply room, I<br/>12 think you said that you would go and clock in; is<br/>13 that correct?<br/>14 A. Yes.<br/>15 Q. Where would you clock in?<br/>16 A. In the break room.<br/>17 Q. Which break room?<br/>18 A. Which break room?<br/>19 Q. There's more than one break room at the<br/>20 plant, isn't there?<br/>21 A. There's two. But one's supposed to be for<br/>22 the supervisors, so there's one.<br/>23 Q. Was it a big break room, the main break</p>           | <p style="text-align: right;">21</p> <p>1 You clock in first, put your boots on, then<br/>2 get your equipment and go to the back.<br/>3 Q. So you would put them on after you clocked<br/>4 in?<br/>5 A. That's what I said, after I clocked in.<br/>6 Q. Did you observe other people who would wear<br/>7 their boots in from the parking lot?<br/>8 A. No.<br/>9 Q. Are there any other items, other than your<br/>10 boots, that you could put on before you went out<br/>11 onto the production floor?<br/>12 A. Your hair net and mask and your beard net<br/>13 and earplugs and your glasses.<br/>14 Q. Can you describe for me at the beginning of<br/>15 your shift what you would do once you entered the<br/>16 production area?<br/>17 A. Put your equipment on and sanitize it down<br/>18 and go to the line.<br/>19 Q. So you would pass through the double doors;<br/>20 is that correct?<br/>21 A. Yes.<br/>22 Q. And what would you do next?<br/>23 A. When you get through the double doors,</p> |

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| <p style="text-align: right;">22</p> <p>1 you're in the plant and you're getting ready to</p> <p>2 put your equipment on.</p> <p>3 Q. Was there a particular spot where you would</p> <p>4 put your equipment on?</p> <p>5 A. Everybody had to put it on in the same spot.</p> <p>6 Q. And can you describe for me then what you</p> <p>7 would do?</p> <p>8 A. You would go stand in line and wait to be</p> <p>9 sanitized down and go get on the line.</p> <p>10 Q. Would you put on your smock inside the</p> <p>11 production area?</p> <p>12 A. Yes.</p> <p>13 Q. Would you put your apron on inside the</p> <p>14 production area?</p> <p>15 A. Yes.</p> <p>16 Q. How about your sleeves?</p> <p>17 A. You're going to put on everything in there.</p> <p>18 Q. So all the items that you identified for me</p> <p>19 you would put on inside the production area, with</p> <p>20 the exception of your boots and your hair net and</p> <p>21 mask or beard net; is that correct?</p> <p>22 A. Safety glasses and earplugs.</p> <p>23 Q. Would you put them on before you entered the</p> | <p style="text-align: right;">24</p> <p>1 instrument?</p> <p>2 A. No.</p> <p>3 Q. Did you get any breaks during the course of</p> <p>4 your shift?</p> <p>5 A. Yes.</p> <p>6 Q. How many breaks would you get?</p> <p>7 A. Two.</p> <p>8 Q. Did they occur at scheduled times during the</p> <p>9 shift?</p> <p>10 A. Every day, yes.</p> <p>11 Q. Do you recall what times?</p> <p>12 A. No.</p> <p>13 Q. Do you recall how long they were?</p> <p>14 A. 30 minutes apiece.</p> <p>15 Q. And was that the same during the entire time</p> <p>16 you worked at the plant?</p> <p>17 A. Yes.</p> <p>18 Q. How would you know when it was time to leave</p> <p>19 for break?</p> <p>20 A. They'll stop running meat. And you go get</p> <p>21 off the line -- well, as soon as they stop running</p> <p>22 meat, your 30 minutes has started. So you go up</p> <p>23 to the front, sanitize down, take your stuff off,</p>  |
| <p style="text-align: right;">23</p> <p>1 production area?</p> <p>2 A. You can, but I put it on once I got in</p> <p>3 there.</p> <p>4 Q. And then you indicated that you would rinse</p> <p>5 or wash off your --</p> <p>6 A. Sanitize your equipment down.</p> <p>7 Q. So you would do your apron and your gloves;</p> <p>8 is that correct, and your sleeves?</p> <p>9 A. And your boots.</p> <p>10 Q. And then you would go to whatever position</p> <p>11 you were working on that day?</p> <p>12 A. After you get sanitized down.</p> <p>13 Q. Approximately how long would it take you</p> <p>14 from the time you passed through the production</p> <p>15 doors until the time that you got to your spot on</p> <p>16 the line?</p> <p>17 A. That's, what, putting on your equipment and</p> <p>18 sanitize down?</p> <p>19 Q. Yes, sir.</p> <p>20 A. Seven to ten minutes.</p> <p>21 Q. And then once you would get out to your</p> <p>22 position on the line, did you have to get a chain</p> <p>23 glove or knife or scissors or any sort of cutting</p>                             | <p style="text-align: right;">25</p> <p>1 hang it up, clean your boots off, and go back to</p> <p>2 the break room.</p> <p>3 Q. So you would know when it was time to go on</p> <p>4 break because the meat would stop coming to your</p> <p>5 position wherever you were working; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Can you describe for me what you would do</p> <p>9 then?</p> <p>10 A. What would you do when what?</p> <p>11 Q. Right after the meat reaches your position</p> <p>12 and you're ready to go out on break, what do you</p> <p>13 do next?</p> <p>14 A. You're talking about once all the meat is</p> <p>15 gone and you get ready to go on break?</p> <p>16 Q. Yes, sir.</p> <p>17 A. You go to the front, sanitize down, take</p> <p>18 your stuff off, hang it up, clean your boots off,</p> <p>19 and go to the break room or go out the door.</p> <p>20 Q. Are there any items that you would not take</p> <p>21 off?</p> <p>22 A. Your boots.</p> <p>23 Q. Okay. Could you keep your hair net or your</p> |



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| <p style="text-align: right;">26</p> <p>1 beard net on?</p> <p>2 A. Yes.</p> <p>3 Q. What about your safety glasses?</p> <p>4 A. I guess.</p> <p>5 Q. Approximately how long would it take you</p> <p>6 from the time you left your position on the line</p> <p>7 to the time you exited the production floor?</p> <p>8 A. The same seven to ten minutes.</p> <p>9 Q. And what would you do after you left the</p> <p>10 production floor?</p> <p>11 A. Exit and go on to the toilet or break room.</p> <p>12 Q. Would you normally stay in the break room or</p> <p>13 would you go outside?</p> <p>14 A. I'd go out the door or go in the break room.</p> <p>15 Q. That's fine. I just wanted to know whether</p> <p>16 you went to the break room or whether you went</p> <p>17 outside instead?</p> <p>18 A. It don't matter where you go; but once you</p> <p>19 get there, you don't have more than 15 minutes to</p> <p>20 be there no ways.</p> <p>21 Q. So when you got out to the break room, what</p> <p>22 would you normally do?</p> <p>23 A. Use the bathroom, buy a soda, head back to</p>  | <p style="text-align: right;">28</p> <p>1 doors to the time you got back to the line?</p> <p>2 A. Seven to ten minutes.</p> <p>3 Q. During the time you were employed at the</p> <p>4 plant, were you ever written up for being late?</p> <p>5 A. Not that I can recall, no.</p> <p>6 Q. Do you recall being written up for any</p> <p>7 reason?</p> <p>8 A. No.</p> <p>9 Q. Would you repeat that same process before</p> <p>10 and after your second break? You would do the</p> <p>11 same things?</p> <p>12 A. Yeah.</p> <p>13 Q. There's no big difference between what you</p> <p>14 would do for your first break and what you would</p> <p>15 do for the second break?</p> <p>16 A. No difference at all.</p> <p>17 Q. How would you know when it was the end of</p> <p>18 your shift?</p> <p>19 A. The meat going to stop running and your</p> <p>20 supervisor will tell you you can go.</p> <p>21 Q. Now, what time would that normally happen?</p> <p>22 A. I mean, regardless, you're going to be there</p> <p>23 for your eight hours. You're going to be there</p>   |
| <p style="text-align: right;">27</p> <p>1 get equipped back up.</p> <p>2 Q. How would you know when it was time to</p> <p>3 return from break?</p> <p>4 A. Because they stop running the meat, let's</p> <p>5 say, at seven o'clock, and take you ten minutes</p> <p>6 out of there; you know, you've got 20 minutes</p> <p>7 left. You know it's going to take you the same</p> <p>8 ten minutes to get suited back up. The time</p> <p>9 starts when the meat stops; it don't start when</p> <p>10 you get in the break room.</p> <p>11 Q. So is there anyone who would tell you what</p> <p>12 time you had to be back from break?</p> <p>13 A. No. Because once the meat stop running, you</p> <p>14 look at the clock.</p> <p>15 Q. Can you describe for me what you would do</p> <p>16 when you returned from break, when you were going</p> <p>17 back through the production doors?</p> <p>18 A. Go back through the door, clean your boots</p> <p>19 off, you put your equipment back on, you stand</p> <p>20 back in line to sanitize that down, then you go</p> <p>21 back to the line.</p> <p>22 Q. Approximately how long would it take you</p> <p>23 from the time you passed through the production</p> | <p style="text-align: right;">29</p> <p>1 over your eight hours, so...</p> <p>2 Q. So you were working night shift, correct?</p> <p>3 A. Yes.</p> <p>4 Q. So you didn't necessarily have a set end</p> <p>5 time?</p> <p>6 A. No.</p> <p>7 Q. So you had to wait until the meat finished</p> <p>8 coming to your spot. Did you also have to wait</p> <p>9 for your supervisor to release you?</p> <p>10 A. No. Because when the meat's getting ready</p> <p>11 to stop running, your supervisor will come to you</p> <p>12 and let you know that's all.</p> <p>13 Q. Now, could you explain to me what you would</p> <p>14 do at the end of your shift, after the meat stops</p> <p>15 coming and you're able to leave your position and</p> <p>16 get ready to leave?</p> <p>17 A. Go back and sanitize down and take the stuff</p> <p>18 off and walk to the door and clean your boots</p> <p>19 again. Then you go, and right by the break room</p> <p>20 door is a basket or something where you would</p> <p>21 throw your cotton liner and your smock in there.</p> <p>22 And you go and you clock out.</p> <p>23 Q. Approximately how long would it take you</p> |

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| <p style="text-align: right;">30</p> <p>1 from the time you left your position on the line</p> <p>2 to the time you exited the production floor?</p> <p>3 A. Back toward the break room?</p> <p>4 Q. Yes, sir.</p> <p>5 A. Seven to ten minutes.</p> <p>6 Q. Now, did you ever time yourself for the</p> <p>7 amount of time it would take you to leave the line</p> <p>8 and get out through the production door?</p> <p>9 A. Talking about after the fact you sanitized</p> <p>10 down and hang your stuff up?</p> <p>11 Q. Right. Did you ever actually time yourself?</p> <p>12 A. You're talking about, what, getting off of</p> <p>13 break or something?</p> <p>14 Q. Yes, sir.</p> <p>15 A. Yeah. Because you're going to look at the</p> <p>16 clock before you leave out of there to know what's</p> <p>17 your remaining time to be back in there.</p> <p>18 Q. What's your understanding as to how the</p> <p>19 number of hours for which you were paid, how that</p> <p>20 number was calculated?</p> <p>21 A. What do I understand about it?</p> <p>22 Q. Yes, sir.</p> <p>23 A. Break it down for me.</p> | <p style="text-align: right;">32</p> <p>1 hours that you worked?</p> <p>2 A. Yes.</p> <p>3 Q. When did that happen?</p> <p>4 A. It was after 90 days, because you're</p> <p>5 supposed to get a raise after 90 days. But I</p> <p>6 didn't get mine for, like, probably three weeks</p> <p>7 after.</p> <p>8 Q. So when you went and complained, you were</p> <p>9 complaining about the hourly rate that you were</p> <p>10 being paid, your wage rate; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. What about the actual number of hours</p> <p>13 worked? Did you ever complain about that?</p> <p>14 A. Yes.</p> <p>15 Q. And who did you complain to?</p> <p>16 A. I do not remember his name, but he's, like,</p> <p>17 the manager over the whole plant.</p> <p>18 Q. And how many times did that happen?</p> <p>19 A. I went to him, it was two days in a row.</p> <p>20 Q. And what was your complaint?</p> <p>21 A. That they messed my check all the way up.</p> <p>22 Q. Okay. And that was -- was that also related</p> <p>23 to this raise that you were supposed to get after</p>  |
| <p style="text-align: right;">31</p> <p>1 Q. Okay. Do you have any sort of understanding</p> <p>2 as to how the hours for which you were paid by the</p> <p>3 company were calculated?</p> <p>4 A. Through master card.</p> <p>5 Q. And what is your understanding as to what</p> <p>6 the master card was?</p> <p>7 A. It clocks you in and it clocks you out.</p> <p>8 Q. So you weren't paid from the time you</p> <p>9 clocked in until the time you clocked out; is that</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. That's your understanding?</p> <p>13 A. Yes.</p> <p>14 Q. And you were paid some different time?</p> <p>15 A. Yes.</p> <p>16 Q. During the time that you were working at the</p> <p>17 plant, you would get paid weekly; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. Did you ever have an instance where you got</p> <p>20 a paycheck and you looked at the hours for which</p> <p>21 you were paid and you went and complained to a</p> <p>22 supervisor or someone in payroll or someone in</p> <p>23 management that you hadn't been paid for all the</p>                          | <p style="text-align: right;">33</p> <p>1 90 days?</p> <p>2 A. No. It was two different incidents.</p> <p>3 Q. Okay. What was this incident where you</p> <p>4 claimed that they messed up your check? Can you</p> <p>5 explain?</p> <p>6 A. What I was telling you: You don't have a</p> <p>7 cutoff time to get off. You know, you been down,</p> <p>8 let's say, 50 hours; but the check had, like, 38</p> <p>9 on it or something like that.</p> <p>10 Q. So you believe that you were not paid for</p> <p>11 all the hours you were at the plant?</p> <p>12 A. No. I don't believe that; I know that.</p> <p>13 Q. And what happened after you raised your</p> <p>14 complaint?</p> <p>15 A. After those first -- because he told me that</p> <p>16 evening he was going to reprint a check. So I had</p> <p>17 to go back to him the following day. The third</p> <p>18 day, that's when I got it.</p> <p>19 Q. So you complained that you weren't properly</p> <p>20 paid for your hours, and then you eventually got a</p> <p>21 check for those hours; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Were there ever any other instances where</p> |

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| <p style="text-align: right;">34</p> <p>1 you complained about the amount of hours for which<br/>2 you were paid?<br/>3 A. No.<br/>4 Q. Those are all the questions I have for you.<br/>5 Thank you. I'm sure Mr. Camp has a few.<br/>6 BY MR. CAMP:<br/>7 Q. You said you worked in DSI, packout, debone,<br/>8 and box room; but you primarily worked out of DSI,<br/>9 but that you would move to other positions as they<br/>10 needed; you is that correct?<br/>11 A. Yes.<br/>12 Q. Did you see that other employees had to do<br/>13 the same thing, that they would move to other<br/>14 positions throughout the plant, depending on if<br/>15 there was a shortage of labor or whatever the<br/>16 reason may be?<br/>17 A. Yes.<br/>18 Q. Do you understand that this lawsuit is<br/>19 seeking to compensate you for all hours worked?<br/>20 A. Yes.<br/>21 Q. That this lawsuit has nothing to do with the<br/>22 two complaints that you made, one to the plant<br/>23 manager -- the two to the plant manager -- and</p> | <p style="text-align: right;">36</p> <p>1 Q. Why did you put your boots on in the break<br/>2 room?<br/>3 A. Because they had lockers in the break room.<br/>4 You put your shoes in the locker and take your<br/>5 boots out and put them on.<br/>6 Q. So would you wear your boots from the<br/>7 house?<br/>8 A. No.<br/>9 Q. You would leave your boots at the plant?<br/>10 A. I'd leave them at the plant or take them<br/>11 with me. But I wouldn't just wear them out<br/>12 because them boots were uncomfortable.<br/>13 Q. When you were putting items on and<br/>14 sanitizing your boots and washing equipment at the<br/>15 beginning of the day and on breaks and at the end<br/>16 of the day, did supervisors -- were there<br/>17 supervisors around in the plant? Were there<br/>18 supervisors that would have known that y'all were<br/>19 doing this work?<br/>20 MR. GOULD: I object to the form of the<br/>21 question.<br/>22 A. Repeat that one more time for me.<br/>23 Q. Did your supervisor, did -- was there</p> |
| <p style="text-align: right;">35</p> <p>1 whoever the other individual was?<br/>2 A. Yes.<br/>3 Q. Did you say your shift started at 4:15?<br/>4 A. Yes.<br/>5 Q. And you would arrive around 3:30?<br/>6 A. Yes.<br/>7 Q. Could you clock in at 3:30?<br/>8 A. You could clock in at 3:30, but you're not<br/>9 supposed to clock in at 3:30.<br/>10 Q. When were you supposed to clock in?<br/>11 A. I believe, four.<br/>12 Q. So within 15 minutes of your shift start<br/>13 time?<br/>14 A. Yes. You had to be there early so you could<br/>15 get your stuff out of the equipment line, and<br/>16 you've got to be there early to put stuff on to<br/>17 get on the line.<br/>18 Q. You may have mentioned this and I missed it,<br/>19 but were you allowed to wear your boots outside?<br/>20 A. Yes.<br/>21 Q. Okay. You said that you would put your<br/>22 boots on in the break room?<br/>23 A. Yes.</p>   | <p style="text-align: right;">37</p> <p>1 supervision in the plant that knew that you were<br/>2 washing your apron and washing your gloves and<br/>3 sanitizing your boots?<br/>4 A. Yes.<br/>5 Q. Could you wear your hair net outside?<br/>6 A. Yes.<br/>7 Q. That's it.<br/>8 MR. GOULD: I have no other questions.<br/>9<br/>10 (The deposition was concluded.)<br/>11<br/>12<br/>13<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23</p>  |



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| <p style="text-align: right;">38</p> <p>1           C E R T I F I C A T E</p> <p>2</p> <p>3    S T A T E  O F  A L A B A M A</p> <p>4    B A R B O U R  C O U N T Y</p> <p>5</p> <p>6           I hereby certify that the above and</p> <p>7    foregoing deposition was taken down by me in</p> <p>8    stenotype and the questions and answers thereto</p> <p>9    were transcribed by means of computer-aided</p> <p>10   transcription, and that the foregoing represents</p> <p>11   a true and correct transcript of the testimony</p> <p>12   given by said witness upon said hearing.</p> <p>13           I further certify that I am neither of</p> <p>14   counsel, nor kin to the parties to the action,</p> <p>15   nor am I in anywise interested in the result of</p> <p>16   said cause.</p> <p>17</p> <p>18</p> <p>19           CYNTHIA M. NOAKES, Commissioner</p> <p>20           Certified Court Reporter,</p> <p>21           ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23           Commission Expires 07/08/2009</p> |  |
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**TAB 35**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF

ANTHONY MARCH

JOB NO. 1101-58403

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 22nd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of ANTHONY MARCH may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 22nd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6, 52, 56</p> <p>5 Mr. Steensland 46, 54</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |

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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 10:51 a.m., ANTHONY MARCH, in<br/> 4 the above cause, for oral examination, whereupon<br/> 5 the following proceedings were had:<br/> 6<br/> 7 ANTHONY MARCH,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 COURT REPORTER: Usual<br/> 12 stipulations?<br/> 13 MR. FRY: Yes.<br/> 14 MR. STEENSLAND: That's fine.<br/> 15<br/> 16 EXAMINATION BY MR. FRY:<br/> 17 Q. Mr. March, my name is Gary Fry, and<br/> 18 I'm an attorney, and I am representing Equity Group<br/> 19 Eufaula Division in connection with a lawsuit that<br/> 20 you and some other folks have brought against the<br/> 21 company. And we have asked you to come here today<br/> 22 to answer some questions that we have concerning<br/> 23 your claims in that lawsuit. Have you ever given a</p>        | <p style="text-align: right;">8</p> <p>1 Q. And where is that?<br/> 2 A. In Clayton, Alabama.<br/> 3 Q. And what is your date of birth?<br/> 4 A. August 1st, 1974.<br/> 5 Q. Are you currently employed?<br/> 6 A. Yes.<br/> 7 Q. By whom?<br/> 8 A. Equity.<br/> 9 Q. How long have you been working at<br/> 10 Equity?<br/> 11 A. Since 2001.<br/> 12 Q. So when you started, CP was running<br/> 13 the place, right?<br/> 14 A. Yes.<br/> 15 Q. What is your current job at the<br/> 16 Equity plant?<br/> 17 A. My job now?<br/> 18 Q. Yes, sir.<br/> 19 A. I'm a line leader now.<br/> 20 Q. In what department?<br/> 21 A. Debone.<br/> 22 Q. How long have you had that position?<br/> 23 A. About three years.</p>  |
| <p style="text-align: right;">7</p> <p>1 deposition before?<br/> 2 A. No, sir.<br/> 3 Q. It's fairly simple. I will be asking<br/> 4 the questions, you will be giving me the answers,<br/> 5 and Victoria, the court reporter, will be taking<br/> 6 down what we say. If you don't understand my<br/> 7 question, it's important that you let me know that<br/> 8 so that I can rephrase it so you will understand<br/> 9 it. Okay?<br/> 10 A. Okay.<br/> 11 Q. And if you don't hear any one of my<br/> 12 questions or any part of it, let me know and I will<br/> 13 repeat it. Any answer that you give please make it<br/> 14 a verbal answer as opposed to a nodding or a<br/> 15 shaking of the head. Okay?<br/> 16 A. Yes.<br/> 17 Q. We'll get in the rhythm here. And<br/> 18 try not to talk over me and I will try not to talk<br/> 19 over you because it makes it a lot easier on the<br/> 20 court reporter. Okay?<br/> 21 A. Okay.<br/> 22 Q. Where do you live?<br/> 23 A. 22 Stevenson Road.</p> | <p style="text-align: right;">9</p> <p>1 Q. Prior to being a line leader, what<br/> 2 did you do?<br/> 3 A. Well, I mostly over a couple guys<br/> 4 hanging rehang, at the rehang table, hang birds.<br/> 5 Q. What department was that in?<br/> 6 A. Debone.<br/> 7 Q. How long did you work as a hanger --<br/> 8 or is that the title of your job, a hanger?<br/> 9 A. Yes. Rehang, yes.<br/> 10 Q. How long did you work rehang?<br/> 11 A. Well, I've been back and forth. So<br/> 12 I've been doing rehang about three years.<br/> 13 Q. So during the time you've been a line<br/> 14 leader, you've also done rehang?<br/> 15 A. Yes.<br/> 16 Q. Have you had any other jobs out<br/> 17 there?<br/> 18 A. Shipping.<br/> 19 Q. When did you work in shipping?<br/> 20 A. In 2004 and 2005.<br/> 21 Q. What did you do before you were in<br/> 22 shipping?<br/> 23 A. At rehang again.</p> |

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| <p style="text-align: right;">10</p> <p>1 Q. And take me back. How long before</p> <p>2 you working rehang then?</p> <p>3 A. When I first started in 2001.</p> <p>4 Q. So from the date that you first</p> <p>5 started working for CP, you started on rehang, and</p> <p>6 you worked there for about three years, and then</p> <p>7 you went to shipping?</p> <p>8 A. Yes.</p> <p>9 Q. And you worked in shipping for a</p> <p>10 year?</p> <p>11 A. And I got transferred again.</p> <p>12 Q. And you got back to rehang, and</p> <p>13 you remain a line leader?</p> <p>14 A. Yes.</p> <p>15 Q. Have you performed any other jobs out</p> <p>16 there at that location?</p> <p>17 A. No, sir.</p> <p>18 Q. Over the last three years as a line</p> <p>19 leader and working in rehang, what shift have you</p> <p>20 worked?</p> <p>21 A. First.</p> <p>22 Q. And what are the hours of first</p> <p>23 shift?</p> | <p style="text-align: right;">12</p> <p>1 get processed, get cut up, because that's my job.</p> <p>2 Q. What do you do as a rehanger?</p> <p>3 A. Like if my guy had to go to the</p> <p>4 bathroom, I take their spot to relieve them to go</p> <p>5 to the bathroom, or something like that.</p> <p>6 Q. On the line?</p> <p>7 A. Yes.</p> <p>8 Q. Is that the function of the rehang</p> <p>9 position, to fill in when people have to leave the</p> <p>10 line?</p> <p>11 A. Yes.</p> <p>12 Q. What did you do in shipping?</p> <p>13 A. Well, I was condemned then. I had to</p> <p>14 make sure all the trash was dumped back there in</p> <p>15 the back, and forklift in shipping.</p> <p>16 Q. So where did you work when you did</p> <p>17 the shipping job?</p> <p>18 A. Out there, outside.</p> <p>19 Q. Outside?</p> <p>20 A. Yes.</p> <p>21 Q. So you were out where they ship the</p> <p>22 product out on trucks?</p> <p>23 A. Yes, I was out in that area.</p> |
| <p style="text-align: right;">11</p> <p>1 A. Seven until.</p> <p>2 Q. Pardon?</p> <p>3 A. Seven until.</p> <p>4 Q. Seven until you're done?</p> <p>5 A. Yes.</p> <p>6 Q. That's 7 a.m.?</p> <p>7 A. Yes, sir.</p> <p>8 Q. When you worked in shipping, what</p> <p>9 shift did you work?</p> <p>10 A. First, eight to 5:30.</p> <p>11 Q. That's 8 a.m.?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Going back to when you started and</p> <p>14 those years you worked rehang, what shift did you</p> <p>15 work then?</p> <p>16 A. 7:30 to 4:30.</p> <p>17 Q. So you've always worked the first</p> <p>18 shift?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Describe for me what your job duties</p> <p>21 are as a debone line leader.</p> <p>22 A. Make sure all the birds is hung</p> <p>23 correctly, make sure the line is full before they</p>  | <p style="text-align: right;">13</p> <p>1 Q. Out in the dock area?</p> <p>2 A. Yes. They call that condemned. I</p> <p>3 was working with -- like if the birds is no good,</p> <p>4 they bring them out to me, and I have to go dump</p> <p>5 the combo onto a truck when I'm working back there.</p> <p>6 Q. So your job in shipping was to</p> <p>7 dispose of the condemned birds?</p> <p>8 A. Yes.</p> <p>9 Q. You weren't shipping out a packaged</p> <p>10 product?</p> <p>11 A. No, sir.</p> <p>12 Q. You were just doing the condemned</p> <p>13 work?</p> <p>14 A. Yes, sir.</p> <p>15 Q. What's your current rate of pay?</p> <p>16 A. Pay then?</p> <p>17 Q. Pardon?</p> <p>18 A. Paid now?</p> <p>19 Q. Yes, sir.</p> <p>20 A. Now it's \$10.45.</p> <p>21 Q. And who is your supervisor?</p> <p>22 A. Sampson Reeves.</p> <p>23 Q. At the present time approximately how</p>   |

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| <p style="text-align: right;">14</p> <p>1 many hours a day do you work?</p> <p>2 A. Now?</p> <p>3 Q. Yes, sir.</p> <p>4 A. Well, I be there at seven, sometimes</p> <p>5 I get off about five, 5:30. It depends on what I</p> <p>6 got to do. Sometimes a chain glove might come</p> <p>7 missing, and all the supervisors in the line, they</p> <p>8 got to stay until the chain glove get found.</p> <p>9 Q. Do you work five days a week?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Sometimes overtime?</p> <p>12 A. Yes. Sometimes work on Saturday.</p> <p>13 Q. In connection with your duties as a</p> <p>14 line leader, are you responsible for doing</p> <p>15 paperwork as well?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And do you do that before and after</p> <p>18 the shift?</p> <p>19 A. During.</p> <p>20 Q. Have you covered all of the jobs that</p> <p>21 you've ever had in the Baker Hill plant?</p> <p>22 A. Yes.</p> <p>23 Q. Are you a member of the Union?</p> | <p style="text-align: right;">16</p> <p>1 about the case?</p> <p>2 A. Said that we ain't get paid for our</p> <p>3 hours and breaks and stuff like that.</p> <p>4 Q. Did you agree with him?</p> <p>5 A. Yes. Because it take you a long</p> <p>6 time -- take you a few minutes to take all your</p> <p>7 PPEs off.</p> <p>8 Q. What's your understanding of the</p> <p>9 claim that you have in this case?</p> <p>10 A. Well, when we get there, it takes ten</p> <p>11 minutes to be in the line. Then you have to wash</p> <p>12 your boots, sanitize, all that. And you can't get</p> <p>13 in all at one time because so many folks be there</p> <p>14 tied up, so it takes us time to get to the line.</p> <p>15 Q. How long has this condition that you</p> <p>16 just described existed out there?</p> <p>17 A. Since I've been there.</p> <p>18 Q. As a member of the Union have you</p> <p>19 been to Union meetings?</p> <p>20 A. No, I ain't never been to no Union</p> <p>21 meetings.</p> <p>22 Q. You've never been to any Union</p> <p>23 meetings?</p> |
| <p style="text-align: right;">15</p> <p>1 A. Yes.</p> <p>2 Q. How long have you been a member of</p> <p>3 the Union?</p> <p>4 A. Ever since I've been there.</p> <p>5 Q. Have you ever been a Union steward?</p> <p>6 A. No, sir.</p> <p>7 Q. You've had no position in the Union?</p> <p>8 A. No, sir.</p> <p>9 Q. Have you ever been on any of the</p> <p>10 Union negotiating committees?</p> <p>11 A. No, I haven't.</p> <p>12 Q. You're a plaintiff in this lawsuit,</p> <p>13 is that your understanding? You have a claim,</p> <p>14 correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And how did you learn about the case?</p> <p>17 A. Well, they -- an employee had told me</p> <p>18 about it, and I called and they sent me a letter --</p> <p>19 a form or something in the mail, and I filled it</p> <p>20 out.</p> <p>21 Q. A lawyer sent you the form?</p> <p>22 A. Yes.</p> <p>23 Q. And what did the employee tell you</p>  | <p style="text-align: right;">17</p> <p>1 A. No, sir. But I'm in the Union, but I</p> <p>2 ain't never been to the meetings.</p> <p>3 Q. These issues that you have described</p> <p>4 to me that are part of your claim, have you ever</p> <p>5 discussed them with any of your Union</p> <p>6 representatives?</p> <p>7 A. No, sir.</p> <p>8 Q. Never?</p> <p>9 A. No, sir.</p> <p>10 Q. Did you review any papers in</p> <p>11 preparation for coming here?</p> <p>12 A. Yes.</p> <p>13 Q. What did you review?</p> <p>14 A. No, I ain't get no papers -- nothing</p> <p>15 but what you-all sent me.</p> <p>16 Q. Pardon?</p> <p>17 A. Nothing but the paper I got in the</p> <p>18 mail that you-all sent me to come up here is the</p> <p>19 only thing I got.</p> <p>20 Q. Just the letter you got from your</p> <p>21 lawyer telling you to come here?</p> <p>22 A. Yes.</p> <p>23 Q. Besides your lawyers, did you speak</p>  |



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| <p style="text-align: right;">18</p> <p>1 with anybody about your appearance here today?</p> <p>2 A. No, sir.</p> <p>3 Q. Mr. March, now I'd like for you to</p> <p>4 identify for me those items of clothing or gear</p> <p>5 that you wear on the job since you've been a line</p> <p>6 leader and a rehanger?</p> <p>7 A. A smock, sleeves, cotton liners,</p> <p>8 rubber gloves, ear plugs, beard net, hair net, and</p> <p>9 apron.</p> <p>10 Q. And boots?</p> <p>11 A. Yes.</p> <p>12 Q. Anything else?</p> <p>13 A. That's it.</p> <p>14 Q. And did you wear each of those items</p> <p>15 during the early years when you worked for CP as</p> <p>16 well?</p> <p>17 A. Well, only until I got back there in</p> <p>18 shipping, I didn't.</p> <p>19 Q. We are going to get to that in</p> <p>20 minute. When you worked in rehang for CP, did you</p> <p>21 wear pretty much the same thing?</p> <p>22 A. Yes, sir.</p> <p>23 Q. What did you wear when for that year</p>   | <p style="text-align: right;">20</p> <p>1 A. Yes, sir.</p> <p>2 Q. So everybody in the debone department</p> <p>3 to your understanding wears all these items?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Which of these items are issued to</p> <p>6 you by the company?</p> <p>7 A. Well, we pay for everything, so</p> <p>8 mostly like if your boots wear down, the bottom of</p> <p>9 them, they replace that. They give that to you.</p> <p>10 Q. You say you pay for everything?</p> <p>11 A. Yes.</p> <p>12 Q. What do you mean by that?</p> <p>13 A. Like for your hair nets, or something</p> <p>14 like that, you pay for it. They get your card and</p> <p>15 they swipe it.</p> <p>16 Q. You have to pay for that?</p> <p>17 A. Yes.</p> <p>18 Q. How much does that cost you --</p> <p>19 A. I think a beard net about a penny</p> <p>20 and --</p> <p>21 Q. Pardon?</p> <p>22 A. I think a beard net is about a penny;</p> <p>23 then aprons, they probably about a</p>                   |
| <p style="text-align: right;">19</p> <p>1 you were doing the shipping job?</p> <p>2 A. My regular clothes.</p> <p>3 Q. You didn't have to wear anything</p> <p>4 other than your regular clothes?</p> <p>5 A. No, sir, nothing but some boots,</p> <p>6 that's it.</p> <p>7 Q. Which of those items that you</p> <p>8 described for me that you now put on, which of</p> <p>9 those to your understanding are required?</p> <p>10 A. My boots, apron, ear plugs, beard</p> <p>11 net, hair net -- and my apron. I still wear all</p> <p>12 that.</p> <p>13 Q. And smock?</p> <p>14 A. That's right.</p> <p>15 Q. That's required?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Are the plastic sleeves required?</p> <p>18 A. Yes, now they do because they don't</p> <p>19 want nobody -- some folks might be allergic to it</p> <p>20 on the skin, so they put them on to cover the skin</p> <p>21 up, but they are still required to wear them.</p> <p>22 Q. They are still required to wear the</p> <p>23 plastic sleeves, everybody?</p> | <p style="text-align: right;">21</p> <p>1 dollar-something; and then you got your ear plugs.</p> <p>2 That's like 30-something cents; sleeve's that's</p> <p>3 about 60-something cents.</p> <p>4 Q. Do you have to pay for each of these</p> <p>5 items in order to work there?</p> <p>6 A. Yes.</p> <p>7 Q. What about the smock?</p> <p>8 A. You ain't pay for that. They turn</p> <p>9 those back in, and they go to a place and they</p> <p>10 clean them.</p> <p>11 Q. How do you pay for these items?</p> <p>12 A. With your time card. They come out</p> <p>13 your check.</p> <p>14 Q. How often do you pay for them?</p> <p>15 A. Every day you need them.</p> <p>16 Q. Which of these items that you</p> <p>17 identified for me do you pick up on a daily basis?</p> <p>18 A. Hair net, beard net, apron -- all</p> <p>19 that.</p> <p>20 Q. You pick up an apron every day?</p> <p>21 A. Yes.</p> <p>22 Q. How about a smock?</p> <p>23 A. They just give it to me. I get that</p> |

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| <p style="text-align: right;">22</p> <p>1 every day, too.</p> <p>2 Q. Which, if any, of these items are you</p> <p>3 permitted to wear from home?</p> <p>4 A. None. None but your boots.</p> <p>5 Q. Just your boots?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have a locker at the plant?</p> <p>8 A. No.</p> <p>9 Q. You don't. So the items that you</p> <p>10 don't turn in at the end of the day you take home</p> <p>11 with you?</p> <p>12 A. Most of it, I throw mine away because</p> <p>13 it don't do no good to keep it because blood be on</p> <p>14 it or something like that. I just throw it away.</p> <p>15 Q. Do you just throw your apron away</p> <p>16 every day?</p> <p>17 A. Apron, yes.</p> <p>18 Q. You do, you throw it away every day?</p> <p>19 A. Yes, because it be stinking and stuff</p> <p>20 like that. I just throw it away.</p> <p>21 Q. Do you throw the plastic sleeves away</p> <p>22 every day?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">24</p> <p>1 Q. And you already have your boots and</p> <p>2 your hair net, and your beard net, and your ear</p> <p>3 plugs?</p> <p>4 A. Yes, sir.</p> <p>5 Q. So you put these on right before</p> <p>6 seven o'clock, right before you start your set-up</p> <p>7 procedures?</p> <p>8 A. Yes, when I walk in the door.</p> <p>9 Q. How long does it take you to put this</p> <p>10 stuff on?</p> <p>11 A. Ten minutes.</p> <p>12 Q. Ten minutes?</p> <p>13 A. Yes, because I got to wash my boots</p> <p>14 and all that. I got to wash my boots time I get in</p> <p>15 there. That's the first thing I do. Then I put my</p> <p>16 smock on, apron, on all that stuff on.</p> <p>17 Q. To wash your boots you walk through a</p> <p>18 pair of double doors, right?</p> <p>19 A. Yes.</p> <p>20 Q. And then there is a sanitizing --</p> <p>21 A. Yes. You got to mash a button so it</p> <p>22 will come on.</p> <p>23 Q. You still have to press the button?</p> |
| <p style="text-align: right;">23</p> <p>1 Q. Not everybody does that though, do</p> <p>2 they?</p> <p>3 A. I don't think so.</p> <p>4 Q. These items that you have identified</p> <p>5 for me, where do you put them on at the beginning</p> <p>6 of the shift in the morning?</p> <p>7 A. When I walk in the debone door.</p> <p>8 Q. And the shift starts at 7:30?</p> <p>9 A. Yes, sir.</p> <p>10 Q. What time do you walk into the debone</p> <p>11 room?</p> <p>12 A. I be there at seven.</p> <p>13 Q. Why are you there at seven?</p> <p>14 A. I got to go in and set up, set up</p> <p>15 everything.</p> <p>16 Q. So what time do you enter the</p> <p>17 production floor?</p> <p>18 A. I be there -- I got to be in there</p> <p>19 about 6:15 -- not 6:15, but about 6:50 I walk in</p> <p>20 there.</p> <p>21 Q. And that's when you put on the smock,</p> <p>22 the sleeves, the apron?</p> <p>23 A. Yes, sir.</p>                         | <p style="text-align: right;">25</p> <p>1 A. Yes, sir.</p> <p>2 Q. And how long do you have to stay in</p> <p>3 there?</p> <p>4 A. I don't know how long it be because I</p> <p>5 haven't really timed it.</p> <p>6 Q. It's not too long, is it?</p> <p>7 A. Not too long.</p> <p>8 Q. And then you go through two double</p> <p>9 doors?</p> <p>10 A. Yes. And then you got to go wash the</p> <p>11 smock and the sleeves off, and the gloves, you got</p> <p>12 to wash that off.</p> <p>13 Q. I think you just told me, but let me</p> <p>14 ask it again. How long does it take you to put</p> <p>15 this stuff on?</p> <p>16 A. About ten minutes at the most.</p> <p>17 Q. Does your job require you to use a</p> <p>18 knife or scissors?</p> <p>19 A. No, sir.</p> <p>20 Q. How many breaks do you get?</p> <p>21 A. Two.</p> <p>22 Q. And how long are the breaks?</p> <p>23 A. Thirty.</p>  |

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| <p style="text-align: right;">26</p> <p>1 Q. And where do you take your break?</p> <p>2 A. Outside.</p> <p>3 Q. Outside the building?</p> <p>4 A. Yes, sir.</p> <p>5 Q. What time is the first break?</p> <p>6 A. I take mine at eleven, 11:15.</p> <p>7 Q. 11:15?</p> <p>8 A. Yes, sir. Until about twelve, 12:15</p> <p>9 -- wait.</p> <p>10 Q. No, that's an hour.</p> <p>11 A. My bad, I'm sorry.</p> <p>12 Q. That's okay. Take your time.</p> <p>13 A. About 11:40.</p> <p>14 Q. When is the second break scheduled</p> <p>15 then?</p> <p>16 A. About three, 3:30.</p> <p>17 Q. And that's a 30-minute break?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Are you the guy as the line leader</p> <p>20 that tells your line when it's time for them to go</p> <p>21 on break?</p> <p>22 A. Yes, now I do.</p> <p>23 Q. And you have done that for the past</p>   | <p style="text-align: right;">28</p> <p>1 back at 10:45.</p> <p>2 Q. Let me ask this question -- are they</p> <p>3 supposed to be back at a particular time, or are</p> <p>4 they okay as long as they get there when the bird</p> <p>5 gets to their position?</p> <p>6 A. At a particular time.</p> <p>7 Q. Do they come back in a staggered</p> <p>8 fashion?</p> <p>9 A. Some of them be late because they</p> <p>10 have to wait in line to put their smocks on and</p> <p>11 stuff, so most of them be late.</p> <p>12 Q. Do you drive to the plant each</p> <p>13 morning?</p> <p>14 A. No, sir.</p> <p>15 Q. You get a ride?</p> <p>16 A. Yes, sir.</p> <p>17 Q. What time do you usually get to the</p> <p>18 plant?</p> <p>19 A. Well, my ride be running, so</p> <p>20 sometimes I get there late. Sometimes I be there</p> <p>21 on time. So it be sometimes about seven, 7:15 when</p> <p>22 I get there.</p> <p>23 Q. If you're there at 7:15, you're late,</p> |
| <p style="text-align: right;">27</p> <p>1 three years?</p> <p>2 A. Yes, sir.</p> <p>3 Q. How do you know when it's time for</p> <p>4 your line to go on break?</p> <p>5 A. My supervisor let me know, and I tell</p> <p>6 them.</p> <p>7 Q. Am I correct that when it's time to</p> <p>8 go on break that the people in the line can't leave</p> <p>9 their position until the last bird passes it?</p> <p>10 A. Yes.</p> <p>11 Q. So that means some people go on break</p> <p>12 first before others?</p> <p>13 A. Yes.</p> <p>14 Q. What signals the end of the break</p> <p>15 period and the time to go back to work?</p> <p>16 A. Well, I guess everybody pretty much</p> <p>17 knows what time to come back, so they come back</p> <p>18 when it's time for them to come back. They got a</p> <p>19 watch -- a clock in the break room. They pretty</p> <p>20 much come back on their own.</p> <p>21 Q. What time are they supposed to come</p> <p>22 back?</p> <p>23 A. They take break at 10:15. They come</p> | <p style="text-align: right;">29</p> <p>1 right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. When you're not late, what time do</p> <p>4 you usually like to get there?</p> <p>5 A. Seven o'clock on the dot.</p> <p>6 Q. Seven o'clock on the dot?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have to pass through any</p> <p>9 security to get into the plant?</p> <p>10 A. Yes, sir.</p> <p>11 Q. What security?</p> <p>12 A. They have to write you a little card</p> <p>13 out for your car or something like that. If you</p> <p>14 don't have no sticker on your car, you have to wait</p> <p>15 in line. And that be a good little minute.</p> <p>16 Q. The person that you drive with, does</p> <p>17 he have a sticker on his car?</p> <p>18 A. No, it be my wife bringing me.</p> <p>19 Q. Your wife brings you?</p> <p>20 A. Yes.</p> <p>21 Q. And does she drop you off?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And what do you do, go up to the</p>                                 |

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| <p style="text-align: right;">30</p> <p>1 guard shack and flash your badge?</p> <p>2 A. Yes. And they give her a little</p> <p>3 badge so she can come on in.</p> <p>4 Q. Is that the only security you got to</p> <p>5 pass?</p> <p>6 A. Yes, sir.</p> <p>7 Q. At the end of the day, does your wife</p> <p>8 come and pick you up?</p> <p>9 A. No, I catch me another ride home. I</p> <p>10 catch me an employee ride with them.</p> <p>11 Q. Do you have to clear any security on</p> <p>12 your way out?</p> <p>13 A. Yes, sir.</p> <p>14 Q. What do you do?</p> <p>15 A. Well, sometimes if the driver I ride</p> <p>16 with, sometimes they ain't got no sticker on their</p> <p>17 car, and they have a little badge, and they have to</p> <p>18 stop and give it to them.</p> <p>19 Q. But as long as they have a badge,</p> <p>20 they can just show their badge when they leave?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Have you ever been searched to get</p> <p>23 into the plant?</p>   | <p style="text-align: right;">32</p> <p>1 Q. What's the shortest time?</p> <p>2 A. About six -- about five, six minutes.</p> <p>3 Q. And you've never been able to just</p> <p>4 walk up there and get your smock?</p> <p>5 A. No, sir.</p> <p>6 Q. Never once?</p> <p>7 A. Every time I -- just bad luck I</p> <p>8 guess.</p> <p>9 Q. After you pick up your smock, what do</p> <p>10 you do?</p> <p>11 A. Go on and sanitize my foots on my</p> <p>12 boots, and then throw my smock on and all that, and</p> <p>13 then wash all that down. That's a good another ten</p> <p>14 minutes, and then go in there and get my stuff set</p> <p>15 up.</p> <p>16 Q. And you have to do certain functions</p> <p>17 in order to set up the line, correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And that's what you're supposed to be</p> <p>20 doing from seven o'clock to 7:30?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Are you paid for that time?</p> <p>23 A. Until I walk in there, yes. Until I</p>                     |
| <p style="text-align: right;">31</p> <p>1 A. No, sir.</p> <p>2 Q. Have your belongings ever been</p> <p>3 searched to get into the plant?</p> <p>4 A. No, sir.</p> <p>5 Q. How about leaving the plant, have you</p> <p>6 ever been searched?</p> <p>7 A. No, sir.</p> <p>8 Q. You testified that you like to get</p> <p>9 there right at seven on the dot. Tell me what you</p> <p>10 do when you get there, when your wife drops you</p> <p>11 off.</p> <p>12 A. Well, I have to wait in line to get</p> <p>13 my PPEs. I have to wait in line to get all that.</p> <p>14 Sometimes when I get there, there still be a line,</p> <p>15 so it takes me about five, ten minutes to wait in</p> <p>16 line because the line be so long.</p> <p>17 Q. So a lot of people are there at seven</p> <p>18 o'clock, is that what you're telling me? The</p> <p>19 production people get there a half hour beforehand?</p> <p>20 A. Yes, sir.</p> <p>21 Q. How long have you had to wait in</p> <p>22 line? What's the longest time?</p> <p>23 A. Ten minutes.</p> | <p style="text-align: right;">33</p> <p>1 walk up into the doors, I get paid, yes. Supposed</p> <p>2 to. As far as my knowledge, I'm supposed to.</p> <p>3 Q. I'm sorry, I --</p> <p>4 A. I said as far as my knowledge, I'm</p> <p>5 supposed to.</p> <p>6 Q. What's your understanding as to how</p> <p>7 the company keeps track of your time?</p> <p>8 A. My supervisor got a Master Card, and</p> <p>9 when he swipe that Master Card, that's when</p> <p>10 everybody's time is supposed to start.</p> <p>11 Q. Well, that's for everybody on the</p> <p>12 line as well, correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. My question is: As a line leader,</p> <p>15 you have certain set-up responsibilities, correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And you perform them before the line</p> <p>18 employees get there, correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Are you paid for that?</p> <p>21 A. Yes. I'm supposed to be paid for it,</p> <p>22 yes, sir.</p> <p>23 Q. How is that time kept?</p> |

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| <p style="text-align: right;">34</p> <p>1 A. Well, my supervisor, he must keep up<br/>2 with the time.<br/>3 Q. Do you know how he keeps it?<br/>4 A. On a time sheet. It prints it up<br/>5 everybody's time on the time sheet.<br/>6 Q. So you're not really paid on the<br/>7 basis of Master Card time, are you?<br/>8 A. I don't know. I think so.<br/>9 Q. Well, you get paid for the set-up<br/>10 time at the beginning, correct?<br/>11 A. Yes, sir.<br/>12 Q. And at the end of the shift, do you<br/>13 have paperwork and other things that you need to do<br/>14 after the other people leave the line?<br/>15 A. Yes, sir. I have to watch my chain<br/>16 gloves, something like that, that people have. So<br/>17 I'm sort of like a check person, too. So I have to<br/>18 watch the chain gloves.<br/>19 Q. Is it your understanding that you are<br/>20 paid for that time as well if that follows the end<br/>21 of the shift?<br/>22 A. Yes, sir.<br/>23 Q. And your supervisor keeps track of</p> | <p style="text-align: right;">36</p> <p>1 A. Yes, sir.<br/>2 Q. So you tell the people on the line<br/>3 it's time for them to go to break, and you stay,<br/>4 and you wash down the floor?<br/>5 A. Yes, sir.<br/>6 Q. And how long does that take you?<br/>7 A. 15 minutes.<br/>8 Q. And are you paid for that time?<br/>9 A. I just get paid when I'm on the<br/>10 clock.<br/>11 Q. Pardon?<br/>12 A. Just for time I'm in there.<br/>13 Q. Is it your understanding you're paid<br/>14 for that time?<br/>15 A. Yes, sir.<br/>16 Q. And because you have to stay 15<br/>17 minutes to wash the floor, is it your understanding<br/>18 you still are entitled to your 30-minute break?<br/>19 A. Yes.<br/>20 Q. After you're finished washing down<br/>21 the floor, tell me what you need to do in order to<br/>22 go on break.<br/>23 A. Well, I have to wait until everybody</p>                             |
| <p style="text-align: right;">35</p> <p>1 that time that you spend at the end of the shift as<br/>2 a line leader doing your job?<br/>3 A. Yes, sir.<br/>4 Q. That's not part of your claim in this<br/>5 lawsuit, is it?<br/>6 A. No, sir.<br/>7 Q. Do you go directly from the supply<br/>8 room into the production floor generally when you<br/>9 get there in the morning?<br/>10 A. Yes, sir.<br/>11 Q. And then you put on your PPE?<br/>12 A. Yes, sir.<br/>13 Q. Correct?<br/>14 A. Yes, sir.<br/>15 Q. How long did you say it takes you to<br/>16 put that on?<br/>17 A. About ten minutes.<br/>18 Q. Tell me what you do now when it's<br/>19 time to go on break.<br/>20 A. Well, I have to wash the floor down.<br/>21 When everybody go to break, I have to wash down,<br/>22 make sure the line is clean, all this stuff.<br/>23 Q. You use a hose for that?</p>  | <p style="text-align: right;">37</p> <p>1 comes back on the line, get my line started up.<br/>2 And when I get that straight, then I go to break.<br/>3 Q. Who serves as a line leader then when<br/>4 you're not there?<br/>5 A. My supervisor.<br/>6 Q. So then you go on break, and how<br/>7 long -- you have a 30-minute break?<br/>8 A. Yes, sir.<br/>9 Q. And you take it outside?<br/>10 A. Yes, sir.<br/>11 Q. And how much of that 30 minutes do<br/>12 you actually get for a break?<br/>13 A. About 20.<br/>14 Q. What happens when it's time for you<br/>15 to go back to work?<br/>16 A. I have to go back and do the same<br/>17 routine again.<br/>18 Q. Explain to me what that is.<br/>19 A. Sanitize my boots, and wash my apron<br/>20 back off, and start back up.<br/>21 Q. How long does that process take?<br/>22 A. Another ten minutes.<br/>23 Q. You don't have to wait on anybody at</p> |



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| <p style="text-align: right;">38</p> <p>1 the wash stands, either when you go on break or</p> <p>2 when you come back from break, do you?</p> <p>3 A. Not all the time I don't.</p> <p>4 Q. Because the people have already left</p> <p>5 or they have already come back, correct?</p> <p>6 A. Yes. Sometimes a different area be</p> <p>7 in there like DSI. They come from break the same</p> <p>8 time I do, so it still be almost the same wait, but</p> <p>9 a little different.</p> <p>10 Q. Let me ask you some questions about</p> <p>11 the end of the shift. The shift ends approximately</p> <p>12 when, the production shift?</p> <p>13 A. 4:30.</p> <p>14 Q. And the people in the line, they</p> <p>15 leave, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And you have to stay after and you</p> <p>18 wash down the floor?</p> <p>19 A. No, I have to -- when they leave, I</p> <p>20 have to make sure all the paper and all the</p> <p>21 stuff -- like they throw paper and stuff on the</p> <p>22 ground or something. I have to go back and pick</p> <p>23 that up, and then wash my chain gloves, turn all</p> | <p style="text-align: right;">40</p> <p>1 scissors checked out.</p> <p>2 Q. And then what do you do?</p> <p>3 A. Then I turn my paperwork in, and if I</p> <p>4 ain't got anything else to do, I leave.</p> <p>5 Q. Do you turn the paperwork in after</p> <p>6 you wash off and undress or before?</p> <p>7 A. After.</p> <p>8 Q. So after you wash, then you go turn</p> <p>9 in your paperwork?</p> <p>10 A. Yes.</p> <p>11 Q. How long does that process take you</p> <p>12 from the time the line employees leave until you</p> <p>13 walk out the door?</p> <p>14 A. Not long, because when I get ready to</p> <p>15 leave I just throw everything away, so not long</p> <p>16 because I am up in there waiting when I get ready</p> <p>17 to leave. So everybody pretty much be out the way</p> <p>18 when I get ready to leave.</p> <p>19 Q. About how much time does it take you</p> <p>20 to do what you need to do to get out of the plant?</p> <p>21 A. From the time I leave the plant to</p> <p>22 turn all the paperwork in?</p> <p>23 Q. Yes, sir.</p>  |
| <p style="text-align: right;">39</p> <p>1 the paperwork in, all this stuff.</p> <p>2 Q. At the end of the first shift, am I</p> <p>3 correct that the second shift employees step right</p> <p>4 up as soon as the first shift employees step down?</p> <p>5 A. Yes.</p> <p>6 Q. So there is no lapse of time there?</p> <p>7 A. No, sir.</p> <p>8 Q. And you have to account for the chain</p> <p>9 gloves?</p> <p>10 A. Yes.</p> <p>11 Q. And what about the knives?</p> <p>12 A. I don't use knives. I just have two</p> <p>13 scissors. That's it.</p> <p>14 Q. Are you responsible in any way for</p> <p>15 the knives that the employees on the line use?</p> <p>16 A. Well, there's more -- there's</p> <p>17 different line leaders. I am just responsible for</p> <p>18 what I have.</p> <p>19 Q. So after your people leave, what do</p> <p>20 you do? What functions do you have to do before</p> <p>21 it's time for you to leave?</p> <p>22 A. Make sure my floor -- make sure all</p> <p>23 the paper picked up and all the chain gloves and</p>  | <p style="text-align: right;">41</p> <p>1 A. About 20 minutes to do all that.</p> <p>2 Q. We talked a little bit about this,</p> <p>3 but I want to make sure that I'm clear, that I</p> <p>4 understand what your understanding is. As a line</p> <p>5 leader, what is your understanding as to how the</p> <p>6 company keeps track of the hours that you work for</p> <p>7 which you're going to be paid?</p> <p>8 MR. STEENSLAND: Objection.</p> <p>9 Asked and answered.</p> <p>10 MR. FRY: You can answer.</p> <p>11 MR. STEENSLAND: Go ahead.</p> <p>12 A. Supposed to be a Master Card. That's</p> <p>13 how. And there is supposed to be a time sheet to</p> <p>14 keep up with everybody's time.</p> <p>15 Q. (Mr. Fry) Let me see if I understand</p> <p>16 it. You believe that you are compensated for your</p> <p>17 time on the basis of the time that's computed by</p> <p>18 the Master Card time plus the additional time that</p> <p>19 you put in as a line leader before and after the</p> <p>20 production occurs, and that time is kept by your</p> <p>21 supervisor, is that correct?</p> <p>22 MR. STEENSLAND: Object to the</p> <p>23 form. You can answer.</p> |

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| <p style="text-align: right;">42</p> <p>1 A. Yes.</p> <p>2 Q. (Mr. Fry) Did you understand it?</p> <p>3 THE DEPONENT: Repeat that again.</p> <p>4 MR. FRY: That was a good</p> <p>5 objection. Let me break that down.</p> <p>6 A. You kind of lost me then.</p> <p>7 Q. (Mr. Fry) You believe you're</p> <p>8 compensated first on the basis of line time, Master</p> <p>9 Card time, correct?</p> <p>10 A. Yes.</p> <p>11 Q. In addition to that time, you are</p> <p>12 also paid for the set-up duties that you do before</p> <p>13 the production shift and the various things that</p> <p>14 you need to do at the end of the shift as a line</p> <p>15 leader, correct?</p> <p>16 A. And it's supposed to be all set on</p> <p>17 the same thing, on the same payroll.</p> <p>18 Q. The same payroll as what?</p> <p>19 A. Well, all it supposed to be added</p> <p>20 together on the payroll sheet, on the time sheet.</p> <p>21 Q. On a normal working day do you get</p> <p>22 paid the same amount for the same amount of hours</p> <p>23 as a production employee, or do you get paid more</p> | <p style="text-align: right;">44</p> <p>1 problem?</p> <p>2 A. Sometimes my supervisor, he forgets</p> <p>3 sometimes. So sometimes he don't do it.</p> <p>4 Q. Is it sooner or later taken care of?</p> <p>5 A. On down the line maybe, yes.</p> <p>6 Q. I'm not talking about the claims in</p> <p>7 this case. I'm talking about other normal payroll</p> <p>8 problems. Have you ever had any problems with</p> <p>9 that?</p> <p>10 A. Yes. Sometimes I cash out a vacation</p> <p>11 day, or something like that, and they don't give it</p> <p>12 to me sometimes.</p> <p>13 Q. Do you get it soon --</p> <p>14 A. Yes.</p> <p>15 Q. Ultimately you get it?</p> <p>16 A. Yes. If I keep on complaining about</p> <p>17 it, yes.</p> <p>18 Q. Do you personally keep track of the</p> <p>19 amount of hours that you work at the plant in any</p> <p>20 way?</p> <p>21 A. No, I don't keep up with them.</p> <p>22 Q. Have you made any calculations as to</p> <p>23 the amount of money you think you're owed in this</p> |
| <p style="text-align: right;">43</p> <p>1 because you're a line leader and you put in a</p> <p>2 little extra time?</p> <p>3 A. Because I'm a line leader.</p> <p>4 Q. You get more?</p> <p>5 A. Yes.</p> <p>6 Q. Just briefly, when you were working</p> <p>7 in shipping, you didn't have any wear any clothes</p> <p>8 you told me, correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Did you get two 30-minute breaks</p> <p>11 then, too?</p> <p>12 A. Yes.</p> <p>13 Q. Where did you take those breaks?</p> <p>14 A. Out front.</p> <p>15 Q. And you didn't have to do any taking</p> <p>16 anything off or putting anything back on going to</p> <p>17 and from any of those breaks, correct?</p> <p>18 A. No, sir.</p> <p>19 Q. Have you ever complained to your</p> <p>20 supervisor about any pay issues?</p> <p>21 A. Yes, a few times. Sometimes my check</p> <p>22 ain't be right.</p> <p>23 Q. Has your supervisor taken care of the</p>   | <p style="text-align: right;">45</p> <p>1 lawsuit?</p> <p>2 A. No, sir.</p> <p>3 Q. When you work overtime -- I think you</p> <p>4 told me you work overtime, sometimes on Saturdays?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Do you get paid time-and-a-half?</p> <p>7 A. Yes.</p> <p>8 Q. Have you ever had any complaints</p> <p>9 about how your overtime pay is computed?</p> <p>10 A. No, sir.</p> <p>11 Q. Have you ever filed any grievances</p> <p>12 with the Union?</p> <p>13 A. No, sir.</p> <p>14 Q. Have you ever been subject to any</p> <p>15 disciplinary action?</p> <p>16 A. Like been suspended or something like</p> <p>17 that?</p> <p>18 Q. Yes.</p> <p>19 A. No, I just got wrote up a couple of</p> <p>20 times. I ain't got suspended.</p> <p>21 Q. What did you get written up for?</p> <p>22 A. Something my supervisor told me to</p> <p>23 do, but I ain't did it, but just something simple.</p>  |



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| <p style="text-align: right;">46</p> <p>1 MR. FRY: Thank you. That's all</p> <p>2 I have.</p> <p>3 MR. STEENSLAND: Can we go off</p> <p>4 the record for a second?</p> <p>5 11:32 a.m.</p> <p>6 (Short break.)</p> <p>7 11:33 a.m.</p> <p>8 MR. STEENSLAND: I just have a</p> <p>9 few questions.</p> <p>10</p> <p>11 EXAMINATION BY MR. STEENSLAND:</p> <p>12 Q. Mr. Fry talked about sanitizing your</p> <p>13 boots some --</p> <p>14 A. Yes, sir.</p> <p>15 Q. -- and washing some equipment. Did</p> <p>16 you have to sanitize your boots when you got to</p> <p>17 work?</p> <p>18 A. Well, when you get to work, you go</p> <p>19 get your supplies. Then the time you walk into the</p> <p>20 double doors, then you sanitize before you walk</p> <p>21 into the processing plant.</p> <p>22 Q. What about when you began your first</p> <p>23 break of the day. You talked about two breaks.</p>  | <p style="text-align: right;">48</p> <p>1 A. Yes, sir.</p> <p>2 Q. Could you please tell us -- I believe</p> <p>3 you've listed something referred to as "gear" --</p> <p>4 could you please list what you refer to as PPE?</p> <p>5 A. Ear plugs, hair net, beard net,</p> <p>6 sleeves, apron, smock. That's about it.</p> <p>7 Q. Boots?</p> <p>8 A. Yes.</p> <p>9 Q. When you're reporting to work before</p> <p>10 work -- we talked about the boots -- but all of the</p> <p>11 other PPE, do you have to wash or sanitize that</p> <p>12 before you go on the production floor -- or before</p> <p>13 you go to the line, I should say?</p> <p>14 A. Yes.</p> <p>15 Q. Before you start your break, do you</p> <p>16 have to wash or sanitize all of that equipment?</p> <p>17 A. You are supposed to, yes.</p> <p>18 Q. What happens if you don't do it?</p> <p>19 A. They try to write you up.</p> <p>20 Q. What about when you come back from</p> <p>21 break, do you have to sanitize or wash that</p> <p>22 equipment also?</p> <p>23 A. Yes. They want to make sure it's</p> |
| <p style="text-align: right;">47</p> <p>1 Your first break of the day, do you have to</p> <p>2 sanitize your boots before you leave the processing</p> <p>3 area?</p> <p>4 A. Yes, when you leave and come back.</p> <p>5 Q. And come back from both breaks?</p> <p>6 A. Yes.</p> <p>7 Q. Do you do your paperwork on the</p> <p>8 production floor?</p> <p>9 A. Yes.</p> <p>10 Q. Do you do your paperwork before or</p> <p>11 after washing and sanitizing everything?</p> <p>12 A. Mostly when I have time in that</p> <p>13 space, I do it then.</p> <p>14 Q. So at the end of the day before you</p> <p>15 leave the floor, do you have to sanitize your</p> <p>16 boots?</p> <p>17 A. Yes.</p> <p>18 Q. Do you have to wash the other gear --</p> <p>19 I think it was referred to -- down?</p> <p>20 A. Yes, sometimes I do. Sometimes I</p> <p>21 throw it away.</p> <p>22 Q. I believe it's been referred to as</p> <p>23 gear. Have you ever heard of the term PPE?</p> | <p style="text-align: right;">49</p> <p>1 clean. Sometimes they stand right there and watch</p> <p>2 you.</p> <p>3 Q. What happens if you don't sanitize</p> <p>4 it?</p> <p>5 A. They try to write you up.</p> <p>6 Q. Then at the end of the shift before</p> <p>7 you're leaving for the day, not only your boots,</p> <p>8 but do you have to wash down this other equipment</p> <p>9 that you've listed?</p> <p>10 A. Well, sometimes I do. Sometimes I</p> <p>11 just throw it away.</p> <p>12 Q. You mentioned you throw it away?</p> <p>13 A. Yes.</p> <p>14 Q. The last thing you do before you</p> <p>15 leave, what do you have to do?</p> <p>16 A. Make sure I got all my chain gloves</p> <p>17 and scissors before I get ready to leave and my</p> <p>18 paperwork. Make sure my paperwork is right and</p> <p>19 turn it in.</p> <p>20 Q. What about your smock, what do you do</p> <p>21 with your smock?</p> <p>22 A. The smock be outside the door. I</p> <p>23 just throw it in there, and people come around and</p>  |

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| <p style="text-align: right;">50</p> <p>1 pick it up, and carry it to another plant and wash<br/>2 them.<br/>3 Q. Outside what door?<br/>4 A. The double doors when you first walk<br/>5 out the processing plant.<br/>6 Q. Where do you do your paperwork?<br/>7 A. Sometimes on the floor -- when I get<br/>8 ready to leave?<br/>9 Q. Yes.<br/>10 A. In the office.<br/>11 Q. Do you have your smock on at that<br/>12 point in time?<br/>13 A. No.<br/>14 Q. Have you ever been told to, or<br/>15 ordered to do any type of exercise or stretching<br/>16 before working on the line?<br/>17 A. Yes, we do it occasionally.<br/>18 Q. Who when you say "occasionally", why<br/>19 is it occasionally?<br/>20 A. Sometimes my supervisor don't do it,<br/>21 and then the only time they do it, like his<br/>22 supervisor get on to him, and he will make us do<br/>23 it.</p>   | <p style="text-align: right;">52</p> <p>1 MR. STEENSLAND: You can answer.<br/>2 A. Repeat that again.<br/>3 Q. (Mr. Steensland) Are you asking in<br/>4 this lawsuit to be paid for all the hours that you<br/>5 have worked for the Equity company?<br/>6 MR. FRY: Objection.<br/>7 A. No.<br/>8 Q. (Mr. Steensland) You don't want to<br/>9 be paid for all your hours that you've worked?<br/>10 A. Yes, I do.<br/>11 MR. STEENSLAND: Nothing further.<br/>12 MR. FRY: Just a few questions,<br/>13 Mr. March.<br/>14<br/>15 EXAMINATION BY MR. FRY:<br/>16 Q. These exercises that are done, are<br/>17 they done every day?<br/>18 A. Well, I ain't going to tell -- most<br/>19 of the time, yes, we do. But sometimes they want<br/>20 to start real quick, so sometimes we skip it.<br/>21 Q. When are these exercises done?<br/>22 A. When they first start up, before we<br/>23 start up.</p>  |
| <p style="text-align: right;">51</p> <p>1 Q. And when you say "do it", what do you<br/>2 mean by "do it", does he instruct you-all to do it?<br/>3 A. Yes, he instructs.<br/>4 Q. What does it involve, is a better<br/>5 question?<br/>6 A. Hands moving like this, and then put<br/>7 his fingers -- because we be hanging birds -- where<br/>8 I work at, we hanging birds and sometimes folks be<br/>9 complaining about their wrists, and we do exercises<br/>10 to keep us from hurting our wrists.<br/>11 Q. Is it just you, or everybody that's<br/>12 working that shift in that area?<br/>13 A. Just my area.<br/>14 Q. But is it everybody that's in your<br/>15 area?<br/>16 A. Yes.<br/>17 Q. What happens if you don't do it if<br/>18 the supervisor tells you to?<br/>19 A. He want to try and write you up.<br/>20 Q. Are you asking in this lawsuit to be<br/>21 paid for all the hours that you've worked there for<br/>22 the company?<br/>23 MR. FRY: Objection.</p> | <p style="text-align: right;">53</p> <p>1 Q. I want to be a little more clear as<br/>2 to when they are done. Are they done while the<br/>3 employees are standing at their workstations?<br/>4 A. Yes.<br/>5 Q. So they are done while they are on<br/>6 the line?<br/>7 A. At a time -- see, we get the first<br/>8 birds, and they have a little time -- the birds<br/>9 come from another side, and then before they pile<br/>10 up, they do it then.<br/>11 Q. So they are doing the exercises while<br/>12 the birds are coming?<br/>13 A. Yes.<br/>14 Q. And who swipes the Master Card?<br/>15 A. My supervisor.<br/>16 Q. Are those exercises performed before<br/>17 or after the Master Card is swiped?<br/>18 A. After.<br/>19 Q. The PPE that we've been talking<br/>20 about -- that stuff you wear -- you told me at the<br/>21 outset that the apron and the sleeves you throw<br/>22 away. Do you throw them away every day?<br/>23 A. Not every day. I might keep them</p> |

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| <p style="text-align: right;">54</p> <p>1 every now and then. I don't throw them every day.<br/> 2 I might keep them.<br/> 3 Q. Where do you throw them when you<br/> 4 throw them away?<br/> 5 A. In the trash can.<br/> 6 Q. Where is the trash can located?<br/> 7 A. Inside debone.<br/> 8 Q. So on those days when you do throw<br/> 9 them away at the end of the day, you don't stop to<br/> 10 wash them off before you do that, do you?<br/> 11 A. No.<br/> 12 Q. You just take them off and throw<br/> 13 them, and leave, don't you?<br/> 14 A. Right.<br/> 15 MR. FRY: Thank you.<br/> 16 MR. STEENSLAND: A couple of,<br/> 17 briefly, before I forget.<br/> 18<br/> 19 EXAMINATION BY MR. STEENSLAND:<br/> 20 Q. Currently right now who provides you<br/> 21 with a smock?<br/> 22 A. The plant.<br/> 23 Q. Do they provide you with a new one</p>   | <p style="text-align: right;">56</p> <p>1 company began issuing you a smock at the company,<br/> 2 or at the plant?<br/> 3 A. Yes.<br/> 4 Q. From there forward you did not have<br/> 5 to take a smock home and wash it?<br/> 6 A. No, sir.<br/> 7 Q. Before that you did?<br/> 8 A. Yes, sir.<br/> 9 MR. STEENSLAND: Nothing further.<br/> 10 MR. FRY: Just let me see if I<br/> 11 can follow up.<br/> 12<br/> 13 EXAMINATION BY MR. FRY:<br/> 14 Q. You worked in shipping to 2005,<br/> 15 correct?<br/> 16 A. Yes.<br/> 17 Q. Since you worked at shipping, was<br/> 18 there any period of time when you had to take your<br/> 19 smock home to wash it?<br/> 20 A. Not then I didn't, because I ain't<br/> 21 had one then -- not in 2005, I didn't.<br/> 22 Q. Pardon?<br/> 23 A. I didn't have none in 2005. When I</p> |
| <p style="text-align: right;">55</p> <p>1 every day?<br/> 2 A. Yes.<br/> 3 Q. At some point in time in the past<br/> 4 when you worked there at the plant, did you take<br/> 5 the smock home?<br/> 6 A. Yes.<br/> 7 Q. Did they issue one smock, more than<br/> 8 one smock?<br/> 9 A. Well, when I first started working<br/> 10 there, they issued three smocks. And I used to<br/> 11 carry them home, wash them, bring them back. They<br/> 12 were yours.<br/> 13 Q. If you didn't carry them home and<br/> 14 wash them, what would happen to you the next day?<br/> 15 A. It would be kind of dingy. They<br/> 16 probably want to send you home or write you up, or<br/> 17 something like that.<br/> 18 Q. At what point in time, if you can<br/> 19 recall, did the company start issuing you a new<br/> 20 smock every day there on the company property, if<br/> 21 you can recall?<br/> 22 A. I don't remember right now.<br/> 23 Q. Was there a point in time when the</p> | <p style="text-align: right;">57</p> <p>1 worked back there in shipping, I didn't.<br/> 2 Q. I know that. But when you stopped<br/> 3 working in shipping in 2005 and you went back to<br/> 4 debone, was there a period of time after you worked<br/> 5 in shipping that you had to wash smocks?<br/> 6 A. I don't think so.<br/> 7 Q. So that would mean that the<br/> 8 changeover occurred sometime while you were working<br/> 9 in shipping or before, correct?<br/> 10 A. Yes, sir.<br/> 11 MR. FRY: Thanks.<br/> 12 MR. STEENSLAND: I think that's<br/> 13 it.<br/> 14 11:44 a.m.<br/> 15 *****<br/> 16 FURTHER DEPONENT SAITH NOT<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23</p>  |

58

## 1 CERTIFICATE

2

3 STATE OF ALABAMA

4 AT LARGE

5

6 I hereby certify that the above

7 and foregoing deposition was taken down by me in

8 stenotype and the questions and answers thereto

9 were transcribed by means of computer-aided

10 transcription and that the foregoing represents a

11 true and correct transcript of the testimony given

12 by said witness upon said deposition.

13 I further certify that I am

14 neither of counsel nor of kin to the parties to the

15 action, nor am I in anywise interested in the

16 result of said cause.

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21

22 Victoria M. Castillo, Certified Court Reporter

ACCR# 17, Expires 9/30/2008

23 Commissioner and Notary Public

**TAB 36**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF

MONROE McCALL

JOB NO. 1101-58505

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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|---|--|
| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 23rd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of MONROE McCALL may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 23rd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6</p> <p>5 Mr. Steensland 40</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |



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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 2:32 p.m., MONROE McCALL, in<br/> 4 the above cause, for oral examination, whereupon<br/> 5 the following proceedings were had:<br/> 6<br/> 7 MONROE McCALL,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 EXAMINATION BY MR. FRY:<br/> 12 Q. Mr. McCall?<br/> 13 A. Yes.<br/> 14 Q. My name is Gary Fry, and I'm one of<br/> 15 the lawyers representing Equity Group Eufaula.<br/> 16 A. All right.<br/> 17 Q. The folks that run that poultry plant<br/> 18 in Baker Hill.<br/> 19 A. Yes.<br/> 20 Q. And we have requested your presence<br/> 21 here today to ask you some questions concerning the<br/> 22 claims you and some other folks have made in a<br/> 23 lawsuit filed against the company.</p> | <p style="text-align: right;">8</p> <p>1 talking over one another. So if we try and avoid<br/> 2 that, it will make her job a little easier. Okay?<br/> 3 A. Okay.<br/> 4 Q. And finally, she can't take down the<br/> 5 nod of a head or a shake, so your answers, please<br/> 6 make them verbal -- yes, no, or an explanation.<br/> 7 Okay?<br/> 8 A. Yes.<br/> 9 Q. What's your home address?<br/> 10 A. 2093 County Road 43.<br/> 11 Q. What town?<br/> 12 A. I was going to get to that, but<br/> 13 that's what goes first, 2093 -- and it's Clayton.<br/> 14 Q. Clayton?<br/> 15 A. Clayton, Alabama.<br/> 16 Q. What's your date of birth?<br/> 17 A. March 21st, 1941.<br/> 18 Q. Where do you work?<br/> 19 A. Well, right now I'm just part-time,<br/> 20 working a little at Paragon.<br/> 21 Q. At some point in time you worked at<br/> 22 the poultry plant that's the subject of this case,<br/> 23 right?</p> |
| <p style="text-align: right;">7</p> <p>1 A. Yes.<br/> 2 Q. Have you ever been deposed before?<br/> 3 Have you ever done this before?<br/> 4 A. No.<br/> 5 Q. It's fairly simple. I ask the<br/> 6 questions, and you will be giving me some answers,<br/> 7 and Victoria is our court reporter. She will be<br/> 8 taking down whatever we say.<br/> 9 A. Yes.<br/> 10 Q. If you don't understand my question,<br/> 11 please let me know and I will try and rephrase it<br/> 12 so that you will understand it.<br/> 13 A. Okay.<br/> 14 Q. If you don't hear anything that I<br/> 15 say, let me know and I will repeat it.<br/> 16 A. Yes, I am kind of a little hard of<br/> 17 hearing sometimes.<br/> 18 Q. Okay. So I will try and keep my<br/> 19 voice up but if you don't hear anything, let me<br/> 20 know.<br/> 21 A. Okay.<br/> 22 Q. She can only take down one of us<br/> 23 talking at once. She can't do it when we're</p>    | <p style="text-align: right;">9</p> <p>1 A. Yes.<br/> 2 Q. When did you work there?<br/> 3 A. I left -- they terminated me about<br/> 4 two years ago, but I worked five-and-a-half years<br/> 5 there.<br/> 6 Q. So you were terminated in 2006?<br/> 7 A. Yes.<br/> 8 Q. And if you worked there for five<br/> 9 years, you started about 2001?<br/> 10 A. Yes, I think that would be right.<br/> 11 Q. So when you started there, CP was<br/> 12 running the factory?<br/> 13 A. Yes.<br/> 14 Q. And then at some point Equity took<br/> 15 over, correct?<br/> 16 A. Yes.<br/> 17 Q. And for what reason were you<br/> 18 terminated?<br/> 19 A. I had a problem with my shoulder. I<br/> 20 had a rotator cuff redone, and after about six<br/> 21 months, they told me I couldn't no longer work<br/> 22 there because my insurance ran out, and they<br/> 23 couldn't pay me no longer, and they terminated me.</p>      |

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| <p style="text-align: right;">10</p> <p>1 Q. What was the last job that you had at</p> <p>2 the plant?</p> <p>3 A. They call it the dumper. What it is</p> <p>4 is dumping chickens on the belt out there, cages,</p> <p>5 live birds. But the job was called live hanging.</p> <p>6 That was my title, live hanging.</p> <p>7 Q. How long did you work that job?</p> <p>8 A. Live hanging?</p> <p>9 Q. Yes, sir.</p> <p>10 A. It's kind of hard to just say exactly</p> <p>11 how long it was, but I know between the -- first I</p> <p>12 started on the truck. I was what you call a</p> <p>13 spotter, spotting the trailers. That was the first</p> <p>14 job I worked, and then the guy that they had</p> <p>15 already terminated, they called him back and they</p> <p>16 put him back on the truck, and they give me the</p> <p>17 dumper.</p> <p>18 Q. So is it fair to say that the whole</p> <p>19 time you worked on that plant you were working in</p> <p>20 live hang or out driving trucks around in the yard?</p> <p>21 A. Right. I was outside all the time.</p> <p>22 Q. You were outside all the time?</p> <p>23 A. Right.</p> | <p style="text-align: right;">12</p> <p>1 A. All days. I worked all days.</p> <p>2 Q. What hour did you start?</p> <p>3 A. Start ten minutes after six -- ten</p> <p>4 minutes after six.</p> <p>5 Q. In the morning?</p> <p>6 A. Yes.</p> <p>7 Q. And when did you finish?</p> <p>8 A. Ten minutes until three.</p> <p>9 Q. Who was your supervisor?</p> <p>10 A. Well, I went through so many.</p> <p>11 Q. Who was your last one you remember?</p> <p>12 A. Dee Green.</p> <p>13 Q. Did you work 40 hours a week?</p> <p>14 A. Yes.</p> <p>15 Q. Monday through Friday?</p> <p>16 A. Yes. Some Saturdays.</p> <p>17 Q. How did you come to learn about this</p> <p>18 lawsuit?</p> <p>19 A. Got a letter.</p> <p>20 Q. From the lawyers?</p> <p>21 A. Yes.</p> <p>22 Q. Have you ever talked about the</p> <p>23 lawsuit with any of your coworkers, former</p> |
| <p style="text-align: right;">11</p> <p>1 Q. You never worked inside the plant at</p> <p>2 all?</p> <p>3 A. Well, I worked in the kill room for</p> <p>4 about a couple of days.</p> <p>5 Q. Just a couple of days?</p> <p>6 A. Yes.</p> <p>7 Q. What did you do there?</p> <p>8 A. I was washing down the floor.</p> <p>9 Q. But you never worked on any of the</p> <p>10 production lines?</p> <p>11 A. Yes. One time when I got my knees</p> <p>12 hurt, they put me in there, what they call light</p> <p>13 duty.</p> <p>14 Q. And how long were you on light duty?</p> <p>15 A. About two weeks.</p> <p>16 Q. And where did you work, which room?</p> <p>17 A. They call it SI-something.</p> <p>18 Q. DSI?</p> <p>19 A. Yes.</p> <p>20 Q. That was your light duty job?</p> <p>21 A. Yes.</p> <p>22 Q. What shift did you work when you</p> <p>23 worked in live hang?</p>  | <p style="text-align: right;">13</p> <p>1 coworkers?</p> <p>2 A. No.</p> <p>3 Q. Have you ever attended any meetings?</p> <p>4 A. For this?</p> <p>5 Q. For this.</p> <p>6 A. No.</p> <p>7 Q. Were you a member of the Union?</p> <p>8 A. Yes.</p> <p>9 Q. Did you ever have any position with</p> <p>10 the Union?</p> <p>11 A. No.</p> <p>12 Q. You were never a steward or on the</p> <p>13 negotiating committee?</p> <p>14 A. No.</p> <p>15 Q. Did you ever attend any Union</p> <p>16 meetings?</p> <p>17 A. No. To tell you the truth, I never</p> <p>18 did.</p> <p>19 Q. What is your understanding of what</p> <p>20 you're claiming in this lawsuit?</p> <p>21 MR. STEENSLAND: Objection. You</p> <p>22 may answer.</p> <p>23 A. On the count of working through</p>  |

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| <p style="text-align: right;">14</p> <p>1 breaks.</p> <p>2 Q. (Mr. Fry) When you were in live</p> <p>3 hang?</p> <p>4 A. Yes.</p> <p>5 Q. And how did you get that</p> <p>6 understanding?</p> <p>7 A. Well, we -- all our equipment had</p> <p>8 taken about five minutes to get it on before break</p> <p>9 and five minutes afterward.</p> <p>10 Q. What equipment did you wear?</p> <p>11 A. We wore hair nets, safety glasses,</p> <p>12 ear plugs, and masks, wore a smock, plastic apron;</p> <p>13 we wore cloth gloves, plastic gloves over them,</p> <p>14 wore sleeveless -- what you put up on your arm,</p> <p>15 sleeveless -- wore rubber boots.</p> <p>16 Q. Anything else?</p> <p>17 A. I think I covered all of it.</p> <p>18 Q. Let me go down the list and make sure</p> <p>19 we got it all -- hair net?</p> <p>20 A. Right.</p> <p>21 Q. Safety glasses?</p> <p>22 A. Right.</p> <p>23 Q. Ear plugs?</p> | <p style="text-align: right;">16</p> <p>1 were working as a dumper?</p> <p>2 A. Yes, you put it on before you start</p> <p>3 work.</p> <p>4 Q. When you were working as a spotter,</p> <p>5 which of these items of clothing did you wear?</p> <p>6 A. I wore all that equipment, except the</p> <p>7 gloves -- I mean, the sleeveless.</p> <p>8 Q. When you were working as a spotter,</p> <p>9 all your work was outside?</p> <p>10 A. Yes.</p> <p>11 Q. You still had to wear the smock?</p> <p>12 A. Yes, that was their rule.</p> <p>13 Q. And the hair net?</p> <p>14 A. Yes.</p> <p>15 Q. And the glasses?</p> <p>16 A. Right.</p> <p>17 Q. And the ear plugs?</p> <p>18 A. Right.</p> <p>19 Q. And the apron?</p> <p>20 A. Right.</p> <p>21 Q. Was it your understanding on both</p> <p>22 these jobs -- the spotter job and the dumper job --</p> <p>23 that you were required to wear all of these items?</p>                                 |
| <p style="text-align: right;">15</p> <p>1 A. Right.</p> <p>2 Q. Mask?</p> <p>3 A. Right.</p> <p>4 Q. Was that a --</p> <p>5 A. Yes, go over your nose and your</p> <p>6 mouth.</p> <p>7 Q. Because as a live hang, you are</p> <p>8 working with a lot of chickens and you get a lot of</p> <p>9 dust and chicken stuff. That's why you wore those?</p> <p>10 A. Yes, that's why we wore them outside.</p> <p>11 Q. Smock?</p> <p>12 A. Yes.</p> <p>13 Q. Apron?</p> <p>14 A. Right.</p> <p>15 Q. Cloth gloves?</p> <p>16 A. Right.</p> <p>17 Q. Sleeves?</p> <p>18 A. Right.</p> <p>19 Q. And boots?</p> <p>20 A. Plastic gloves, too.</p> <p>21 Q. Anything else?</p> <p>22 A. That's it.</p> <p>23 Q. And you put this stuff on when you</p>  | <p style="text-align: right;">17</p> <p>1 A. Yes, they had us to wear them. That</p> <p>2 was their issues, not ours. It was wear them or</p> <p>3 leave the job.</p> <p>4 Q. Did you get all of these items from</p> <p>5 the company?</p> <p>6 A. Yes, we had to pay for some of them.</p> <p>7 Yes, they all came from the company.</p> <p>8 Q. When would you have to pay for them?</p> <p>9 A. We pay for them -- they come out of</p> <p>10 your check.</p> <p>11 Q. Did you have to pay for them every</p> <p>12 time you got new ones?</p> <p>13 A. Yes. If you got new ones, you did.</p> <p>14 Q. Could you wear any of these things</p> <p>15 from home?</p> <p>16 A. Wear them from home?</p> <p>17 Q. Yes.</p> <p>18 A. What you mean, put them on before you</p> <p>19 leave home?</p> <p>20 Q. Yes, sir.</p> <p>21 A. No, you didn't want to put them</p> <p>22 things on before you leave home.</p> <p>23 Q. What about your boots?</p> |

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| <p style="text-align: right;">18</p> <p>1 A. Yes, I usually put my boots on.</p> <p>2 Q. What about your glasses, could you</p> <p>3 bring those from home?</p> <p>4 A. Yes.</p> <p>5 Q. And what about your ear plugs?</p> <p>6 A. Put them on at work.</p> <p>7 Q. Some of these things you picked up</p> <p>8 every day from the supply room; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Which ones?</p> <p>11 A. The mask -- and gloves about every</p> <p>12 day, too -- and smock. Just about picked up</p> <p>13 everything except your boots.</p> <p>14 Q. Where did you put this stuff on in</p> <p>15 the mornings before you started to work?</p> <p>16 A. Put it on in the break room before</p> <p>17 you start work.</p> <p>18 Q. What break room?</p> <p>19 A. The one -- they had two break rooms.</p> <p>20 They had a live hang break room. That's where I</p> <p>21 put mine on at.</p> <p>22 Q. And how close was the live hang break</p> <p>23 room to where you did your job as a dumper?</p>                           | <p style="text-align: right;">20</p> <p>1 time would you get to the plant?</p> <p>2 A. I always got there 20 minutes 'til,</p> <p>3 but like I say I'm confused on which one that I</p> <p>4 started at -- let's see. Yes, it was ten minutes</p> <p>5 after six when we started. You are kind of</p> <p>6 confusing me.</p> <p>7 MR. STEENSLAND: Take your time.</p> <p>8 A. You are kind of confusing me. But I</p> <p>9 know he wanted us to clock in 20 minutes before</p> <p>10 time to go to work, and we had to come from the --</p> <p>11 what is the name of the other break room. The</p> <p>12 clock was in one break room, and we had to go all</p> <p>13 the way across to another break room and put on</p> <p>14 everything we had to put on and sit there and wait.</p> <p>15 Q. (Mr. Fry) You said "he wanted us to</p> <p>16 clock in 20 minutes before", who was that?</p> <p>17 A. One of the supervisors, Bobby Dunny.</p> <p>18 Q. He told you that he wanted you to</p> <p>19 clock in 20 minutes before 6:10. So he wanted you</p> <p>20 to clock in at 5:50?</p> <p>21 A. Yes, to get from one break room to</p> <p>22 the other and put on all your equipment.</p> <p>23 Q. So what time did you usually drive</p> |
| <p style="text-align: right;">19</p> <p>1 A. Probably about 300 foot.</p> <p>2 Q. Did you use a knife for any of the</p> <p>3 jobs you did?</p> <p>4 A. Do what now?</p> <p>5 Q. A knife?</p> <p>6 A. No, I didn't have to use a knife.</p> <p>7 Yes, we wore hard hats, too. I forgot about that.</p> <p>8 Sorry about that.</p> <p>9 Q. Could you wear those from home?</p> <p>10 A. No, I didn't want to wear that thing</p> <p>11 from home, too heavy. Didn't want to wear it at</p> <p>12 work.</p> <p>13 Q. Your start time was 6:10 a.m.?</p> <p>14 A. Six or five. I am trying to remember</p> <p>15 whether it was five or ten -- I mean, six. I know</p> <p>16 we got off ten minutes to three, and we had an hour</p> <p>17 -- we had two breaks was 30 minutes.</p> <p>18 Q. Well, let's, for purposes of our</p> <p>19 discussion here, let's assume that your reporting</p> <p>20 time was 6:10 -- or that's when you had to start</p> <p>21 work. Okay?</p> <p>22 A. Okay.</p> <p>23 Q. What time would you get to work, what</p> | <p style="text-align: right;">21</p> <p>1 onto the plant?</p> <p>2 A. I get there at 5:30 in the morning.</p> <p>3 Q. So you got there 20 minutes before</p> <p>4 you had to clock in?</p> <p>5 A. Yes.</p> <p>6 Q. Did you have to clear any security?</p> <p>7 A. No.</p> <p>8 Q. Did you have to clear any security</p> <p>9 when you left at the end of the day?</p> <p>10 A. Security, what do you mean?</p> <p>11 Q. Did you have to go through -- were</p> <p>12 your searched?</p> <p>13 A. No, I never was searched, unless I</p> <p>14 bought chicken or something.</p> <p>15 Q. Did they stop your car and search it</p> <p>16 on your way out?</p> <p>17 A. No.</p> <p>18 Q. On your way in?</p> <p>19 A. No.</p> <p>20 Q. That's what I mean by clearing</p> <p>21 security. You never had to do any of that?</p> <p>22 A. No, they never bothered me.</p> <p>23 Q. Tell me what you did after you</p>  |

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| <p style="text-align: right;">22</p> <p>1 arrived at the plant at 5:30 a.m.</p> <p>2 A. Just sat there until time --</p> <p>3 Q. Pardon?</p> <p>4 A. Sit there on the banks until the time</p> <p>5 that they wanted us to clock in. I was always a</p> <p>6 person to leave on time in case something happened,</p> <p>7 still got to work on time.</p> <p>8 Q. So where would you sit?</p> <p>9 A. In the break room.</p> <p>10 Q. So you would go from your car to the</p> <p>11 break room?</p> <p>12 A. Yes.</p> <p>13 Q. And how long would you sit there?</p> <p>14 A. Mostly about ten minutes, or</p> <p>15 something like that, before time to clock in, 15,</p> <p>16 just depending on what time I got there.</p> <p>17 Q. And where would you clock in then?</p> <p>18 A. In that break room.</p> <p>19 Q. The live hang break room?</p> <p>20 A. No, it was -- it wasn't debone. It</p> <p>21 was three break rooms.</p> <p>22 Q. Evis?</p> <p>23 A. Evis break room was what we called</p>                 | <p style="text-align: right;">24</p> <p>1 A. No.</p> <p>2 Q. You wore the same things?</p> <p>3 A. Yes.</p> <p>4 Q. So you clocked in at 5:50. What did</p> <p>5 you do after you clocked in?</p> <p>6 A. Went to the live hanging break room.</p> <p>7 Q. And what did you do then?</p> <p>8 A. Put my equipment on.</p> <p>9 Q. And then what did you do?</p> <p>10 A. Wait until time to go to work, and</p> <p>11 then walked out to the dump, or the truck,</p> <p>12 whichever one I was running.</p> <p>13 Q. How much of a wait time did you have</p> <p>14 in the live hang break room after you put your</p> <p>15 stuff on?</p> <p>16 A. About ten minutes most of the time.</p> <p>17 They want us to put it on and be ready to get on</p> <p>18 the line. If you didn't, you got a good fussing</p> <p>19 up.</p> <p>20 Q. How long did it take you to put this</p> <p>21 stuff on?</p> <p>22 A. About five minutes.</p> <p>23 Q. Once you put this stuff on, did you</p>                    |
| <p style="text-align: right;">23</p> <p>1 it.</p> <p>2 Q. After you clocked in at 5:50, what</p> <p>3 did you do?</p> <p>4 A. Walked from that break room over to</p> <p>5 live hang break room.</p> <p>6 Q. And then what did you do?</p> <p>7 A. Put on my equipment.</p> <p>8 Q. At some point in this process you</p> <p>9 went to the supply room, right?</p> <p>10 A. Yes, when I first got there.</p> <p>11 Q. When you first got there?</p> <p>12 A. Yes. When you walk through the door,</p> <p>13 you get your supplies.</p> <p>14 Q. Did you ever have to wait in line?</p> <p>15 A. Not at the time that we went in, we</p> <p>16 didn't have to wait in too long because it wasn't</p> <p>17 but just a few starting at the time. When I worked</p> <p>18 in debone, yes, we had to wait in line a long time.</p> <p>19 Q. And how long again did you work in</p> <p>20 debone?</p> <p>21 A. About two weeks.</p> <p>22 Q. And did you wear any different</p> <p>23 equipment when you worked in debone?</p> | <p style="text-align: right;">25</p> <p>1 have to wash it off?</p> <p>2 A. Not when you first put it on because</p> <p>3 it's already clean.</p> <p>4 Q. So then at 6:10 you went out on the</p> <p>5 line?</p> <p>6 A. Right.</p> <p>7 Q. And you started dumping --</p> <p>8 A. No, you went to the line before 6:10.</p> <p>9 You went out there at least five minutes before</p> <p>10 time.</p> <p>11 Q. What did you do when you got there?</p> <p>12 A. Just stand there and be ready.</p> <p>13 Q. When you were dumping birds, weren't</p> <p>14 you sort of the first guy in the operation?</p> <p>15 Nothing could happen until you started dumping</p> <p>16 birds?</p> <p>17 A. Right.</p> <p>18 Q. So tell me how your job typically</p> <p>19 started. Where did you go when you were dumping</p> <p>20 birds?</p> <p>21 A. I had to go upstairs. The dumping</p> <p>22 line was upstairs. You go up there and you get one</p> <p>23 load ready, and you dump one in there and have it</p> |



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| <p style="text-align: right;">26</p> <p>1 ready. No sooner than that line start up -- when</p> <p>2 that belt get to moving, they want them birds on</p> <p>3 that belt.</p> <p>4 Q. So at 6:10 did you immediately start</p> <p>5 to work?</p> <p>6 A. Yes, you be working at 6:10 unless</p> <p>7 something was broke down or either they hadn't</p> <p>8 finished cleaning up or something, but they still</p> <p>9 paid us for that.</p> <p>10 Q. They did?</p> <p>11 A. Yes, we got paid that. If it was</p> <p>12 starting time and we was on the line, we got paid</p> <p>13 for that.</p> <p>14 Q. When you were working as a spotter,</p> <p>15 how would your day start after you put your stuff</p> <p>16 on? What did you do then?</p> <p>17 A. I would go to the trunk and go get a</p> <p>18 load of birds.</p> <p>19 Q. So right at 6:10 you just started</p> <p>20 going to get the birds?</p> <p>21 A. I usually be done started before then</p> <p>22 when I was driving the spotter truck because they</p> <p>23 want you to have them under the shed. You had to</p> | <p style="text-align: right;">28</p> <p>1 A. Right.</p> <p>2 Q. And how would you know it was time to</p> <p>3 take a break? Was it just a matter of looking at</p> <p>4 the clock?</p> <p>5 A. No, we didn't have no clock. They</p> <p>6 went by time clock. They shut the line down.</p> <p>7 Q. How would you know it was break time?</p> <p>8 A. Well, I always watch my watch, and</p> <p>9 then it was getting close, it was getting close.</p> <p>10 But you wasn't going to leave that line until they</p> <p>11 shut it down.</p> <p>12 Q. Were you permitted to wear a watch?</p> <p>13 A. No, I wasn't permitted to wear a</p> <p>14 watch. I just wore a watch because I wanted to.</p> <p>15 They couldn't keep me from wearing my watch.</p> <p>16 Q. So at 8:15 it was time to take your</p> <p>17 break?</p> <p>18 A. Right.</p> <p>19 Q. What would you do?</p> <p>20 A. I'd have to take off everything, take</p> <p>21 about five minutes to get to the break room.</p> <p>22 Q. Where would you take it off, in the</p> <p>23 work room?</p> |
| <p style="text-align: right;">27</p> <p>1 pull one load in, you had to back one in, so you</p> <p>2 usually start about ten minutes earlier to get them</p> <p>3 birds in there.</p> <p>4 Q. Do you get paid for that ten minutes?</p> <p>5 A. No, they didn't pay you nothing for</p> <p>6 it.</p> <p>7 Q. Are you sure?</p> <p>8 A. Yes, I didn't never make but 40 hours</p> <p>9 a week.</p> <p>10 Q. You told me you got two breaks for 30</p> <p>11 minutes?</p> <p>12 A. Right.</p> <p>13 Q. Let me back up and ask you one</p> <p>14 question. You say when you were a spotter you were</p> <p>15 out moving trucks around ten minutes before your</p> <p>16 start time, and you say you weren't paid for that?</p> <p>17 A. No.</p> <p>18 Q. Is that part of your claim in this</p> <p>19 lawsuit?</p> <p>20 A. Yes, that is a lot of it, too.</p> <p>21 Q. When did you take your first break?</p> <p>22 A. 8:15, if I am not wrong.</p> <p>23 Q. 8:15 a.m.?</p>   | <p style="text-align: right;">29</p> <p>1 A. No, they did like you to take it up</p> <p>2 there once you done wore it. You had to take it</p> <p>3 off at your station.</p> <p>4 Q. At your workstation?</p> <p>5 A. Yes.</p> <p>6 Q. So right where you are working, that</p> <p>7 is where you took it off?</p> <p>8 A. Right.</p> <p>9 Q. And you didn't have to wash anything?</p> <p>10 A. Not until the afternoon.</p> <p>11 Q. It took you five minutes to take your</p> <p>12 stuff off?</p> <p>13 A. Yes, about five minutes to take it</p> <p>14 off and get to the break room.</p> <p>15 Q. Let's break that down a little bit.</p> <p>16 How far away was your break room?</p> <p>17 A. About 300 feet.</p> <p>18 Q. 300 feet, that's 100 yards?</p> <p>19 A. I don't know, whatever 300 feet is.</p> <p>20 Q. Last I looked, I thought it was about</p> <p>21 100 yards. So it took you five minutes to take the</p> <p>22 stuff off and get to the break room, right?</p> <p>23 A. Yes, about five minutes.</p>                                     |

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| <p style="text-align: right;">30</p> <p>1 Q. Within that five minutes, how much</p> <p>2 time did it take you to take off the smock and the</p> <p>3 apron, and that sort of stuff?</p> <p>4 A. I didn't keep up with all that. I</p> <p>5 just kept up with the time that it took me to</p> <p>6 undress and get to the break room. I know we</p> <p>7 didn't never get about a 20-minute break. That's</p> <p>8 about all we got out of the 30 minutes. The two</p> <p>9 30-minute breaks we got about 20 minutes out of</p> <p>10 each one of them.</p> <p>11 Q. But taking that stuff off took a</p> <p>12 period of time less than five minutes, correct?</p> <p>13 A. It took about five minutes to get it</p> <p>14 off and get to the break room.</p> <p>15 Q. I am trying to divide those two</p> <p>16 things. You took the stuff off before you began</p> <p>17 your walk to the break room, right?</p> <p>18 A. Right.</p> <p>19 Q. I am trying to figure out how much</p> <p>20 time it took you to take the stuff off.</p> <p>21 A. I couldn't tell you that. I didn't</p> <p>22 keep up with all of that. But I always kept up</p> <p>23 with about how long it would take me to get out of</p> | <p style="text-align: right;">32</p> <p>1 when you put the stuff back on?</p> <p>2 A. No.</p> <p>3 Q. Tell me what you did at the end of</p> <p>4 the shift when it was time to go home.</p> <p>5 A. The last very end?</p> <p>6 Q. Yes, sir.</p> <p>7 A. You go downstairs and take a water</p> <p>8 hose and wash your boots off, wash your apron off,</p> <p>9 then you had to take all that stuff off and fold it</p> <p>10 up, put it in a bag. At one time we was taking it</p> <p>11 home and washing it ourselves, and then all of a</p> <p>12 sudden they started to give us one every morning.</p> <p>13 But that didn't last very long. They finally quit</p> <p>14 that. You had to go back to taking it home and</p> <p>15 washing it yourself.</p> <p>16 Q. And when did that policy change take</p> <p>17 place, do you recall?</p> <p>18 A. It started with Equity Group, and</p> <p>19 they changed it back. CP you always had to take it</p> <p>20 home and wash it.</p> <p>21 Q. And it's your recollection that at</p> <p>22 Equity they started issuing smocks every day?</p> <p>23 A. Right.</p> |
| <p style="text-align: right;">31</p> <p>1 that stuff and get to the break room.</p> <p>2 Q. Did it take you longer to undress or</p> <p>3 longer to walk to the break room?</p> <p>4 A. Longer to undress.</p> <p>5 Q. Longer to undress?</p> <p>6 A. Yes.</p> <p>7 Q. For part of that five minutes you</p> <p>8 were undressing?</p> <p>9 A. Right.</p> <p>10 Q. And for part of that five minutes,</p> <p>11 you were walking to the break room, right?</p> <p>12 A. Right.</p> <p>13 Q. And you reversed the process when you</p> <p>14 came back from break?</p> <p>15 A. Right, you walked back from the break</p> <p>16 room. Then you dress after you get back.</p> <p>17 Q. And both walking and then dressing</p> <p>18 took you about five minutes?</p> <p>19 A. Well, it took about five minutes, but</p> <p>20 you had to be on the line before time and be</p> <p>21 dressed. Because if you didn't, they will write</p> <p>22 you up.</p> <p>23 Q. You didn't have to do any washing</p>  | <p style="text-align: right;">33</p> <p>1 Q. And then they went back to the other</p> <p>2 policy?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know when this happened?</p> <p>5 MR. STEENSLAND: I object. I</p> <p>6 think that mischaracterized what he said.</p> <p>7 MR. FRY: Okay. Let me ask it</p> <p>8 again.</p> <p>9 Q. (Mr. Fry) I think you told me that</p> <p>10 with CP you always had to take the smocks home,</p> <p>11 right?</p> <p>12 A. Right.</p> <p>13 Q. And at some point when you went to</p> <p>14 work for Equity they started issuing you smocks</p> <p>15 every day?</p> <p>16 A. They did for for a little while. It</p> <p>17 didn't last too long.</p> <p>18 Q. And then they switched back to the</p> <p>19 policy that you had with CP where you had to take</p> <p>20 it home all the time?</p> <p>21 A. Right. We did, yes. Now on some of</p> <p>22 them, they didn't. But on the back dock back there</p> <p>23 we had to take it home and wash it. Because they</p>  |



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| <p style="text-align: right;">34</p> <p>1 didn't let us put our smocks in the bath with the</p> <p>2 raw meat, or whatever you call it, inside. So they</p> <p>3 wouldn't let us let put it in there.</p> <p>4 Q. I forgot where we were in the process</p> <p>5 of you getting out of the plant.</p> <p>6 A. Do what now?</p> <p>7 Q. You washed your boots off with a</p> <p>8 hose?</p> <p>9 A. Right.</p> <p>10 Q. And you undressed, you took your</p> <p>11 smock off and your apron, and so forth, and what</p> <p>12 did you do with all those items?</p> <p>13 A. What did I do with them?</p> <p>14 Q. Yes, sir.</p> <p>15 A. I put them in a bag after we started</p> <p>16 where we had to start taking them back home, put</p> <p>17 them in a bag.</p> <p>18 Q. And then what would you do?</p> <p>19 A. Take them home with me.</p> <p>20 Q. Did you clock out?</p> <p>21 A. Yes. I went in and washed up, washed</p> <p>22 my hands and gloves and all that stuff off, and</p> <p>23 then I went and clocked out.</p>    | <p style="text-align: right;">36</p> <p>1 I understand what your understanding is.</p> <p>2 A. Everybody had a time card. You swipe</p> <p>3 that time card. But if you was -- if you had</p> <p>4 worked over, they was already swiped you out before</p> <p>5 you get to the time clock. So they had what you</p> <p>6 call a Master Card, and they swipe everybody out at</p> <p>7 the same time.</p> <p>8 Q. So it was your understanding that</p> <p>9 your hours worked for pay purposes were determined</p> <p>10 by the Master Card?</p> <p>11 A. Right.</p> <p>12 Q. As a member of the Union, did you</p> <p>13 have an opportunity to look at the labor agreement?</p> <p>14 A. Well, I guess you could have, but I</p> <p>15 didn't never get into it.</p> <p>16 Q. Did they give you a copy of the</p> <p>17 agreement?</p> <p>18 A. Yes, we had a handbook.</p> <p>19 Q. I'm not talking about the employee</p> <p>20 handbook, I'm talking about the labor agreement.</p> <p>21 A. No.</p> <p>22 Q. You didn't get it, you never saw it?</p> <p>23 A. No, I never saw it.</p> |
| <p style="text-align: right;">35</p> <p>1 Q. And you clocked out in the live hang</p> <p>2 break room?</p> <p>3 A. No, there wasn't no clock in there.</p> <p>4 Q. In the evis room, you told me I think</p> <p>5 that's were you clocked out?</p> <p>6 A. Yes.</p> <p>7 Q. How much time did this process take?</p> <p>8 A. In the afternoon it probably took a</p> <p>9 little longer because you had more to do.</p> <p>10 Q. About how long?</p> <p>11 A. I'd say six, seven minutes in the</p> <p>12 afternoon.</p> <p>13 Q. At any point during the day, did you</p> <p>14 have you walk through a foot bath to sanitize your</p> <p>15 boots?</p> <p>16 A. No, I didn't.</p> <p>17 Q. What was your understanding as to how</p> <p>18 the company kept track of your time for purposes of</p> <p>19 paying you?</p> <p>20 A. Well, they used -- we used a time</p> <p>21 card. If we was late getting off, they had a</p> <p>22 Master Card that they'd swipe everybody out.</p> <p>23 Q. So explain that to me. I'm not sure</p> | <p style="text-align: right;">37</p> <p>1 THE DEPONENT: Can I take a break</p> <p>2 and go to the bathroom?</p> <p>3 MR. FRY: Yes, you may.</p> <p>4 3:05 p.m.</p> <p>5 (Short break.)</p> <p>6 3:07 p.m.</p> <p>7 Q. (Mr. Fry) Did you ever have any</p> <p>8 complaints about your checks, the payroll checks</p> <p>9 that you got every week?</p> <p>10 A. Every once in an occasion, they would</p> <p>11 short us an hour, but if you told them -- or 30</p> <p>12 minutes or something -- they would correct it.</p> <p>13 Q. So whatever problems you had with</p> <p>14 your pay you took it to your supervisor, and they</p> <p>15 would correct it?</p> <p>16 A. And they would correct it, yes.</p> <p>17 Q. Did you work overtime on occasion?</p> <p>18 A. Every once in an occasion, yes.</p> <p>19 Q. Were you paid time-and-a-half for</p> <p>20 that?</p> <p>21 A. Yes.</p> <p>22 Q. Did you ever have any problem with</p> <p>23 how they computed your overtime pay?</p>   |

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| <p style="text-align: right;">38</p> <p>1 A. No.</p> <p>2 Q. Have you made any calculations as to</p> <p>3 how much time you think that you are to be paid for</p> <p>4 that is your claim in this case?</p> <p>5 A. No, I ain't that good.</p> <p>6 Q. Did you ever file any grievances with</p> <p>7 the Union?</p> <p>8 A. No.</p> <p>9 Q. Did you ever complain to any of the</p> <p>10 Union reps that you weren't being paid for the time</p> <p>11 you were moving those trucks around in the yard, or</p> <p>12 you weren't being paid for the time that you're</p> <p>13 claiming for putting on and taking off your</p> <p>14 equipment?</p> <p>15 A. No, I never did complain about that.</p> <p>16 Q. Were you ever written up for any</p> <p>17 disciplinary infraction?</p> <p>18 A. Yes, one or two times. I am trying</p> <p>19 to think what that was. One of them was one time I</p> <p>20 backed up and backed a truck against another</p> <p>21 trailer, and they claimed it was -- I should have</p> <p>22 pulled it up or told them or something, and I</p> <p>23 didn't, and I left it like that, and they wrote me</p>   | <p style="text-align: right;">40</p> <p>1 Thank you.</p> <p>2 MR. STEENSLAND: I have a</p> <p>3 question or two, Mr. McCall.</p> <p>4</p> <p>5 EXAMINATION BY MR. STEENSLAND:</p> <p>6 Q. Are you asking in this suit to be</p> <p>7 paid for all the hours that you have worked for</p> <p>8 Equity Group?</p> <p>9 A. Yes, sir.</p> <p>10 Q. From the time you get there to the</p> <p>11 time you leave?</p> <p>12 A. Yes, sir.</p> <p>13 MR. STEENSLAND: Nothing further.</p> <p>14 MR. FRY: Thank you.</p> <p>15 3:11 p.m.</p> <p>16 *****</p> <p>17 FURTHER DEPONENT SAITH NOT</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">39</p> <p>1 up on that one.</p> <p>2 Q. You described for me what you did</p> <p>3 when you came in in the morning, what you did on</p> <p>4 your breaks, and what you did at the end of the</p> <p>5 day. Did that same routine pretty much apply for</p> <p>6 both jobs you had as a dumper and a spotter?</p> <p>7 A. All except the spotter truck. It was</p> <p>8 different on it because you done more time in the</p> <p>9 morning -- and in the afternoon, too, because a lot</p> <p>10 of times what they would do, they would want --</p> <p>11 like if we like two or three cages from unloading</p> <p>12 that truck in the afternoon, they wanted to get all</p> <p>13 them cages on the truck, well, they could count</p> <p>14 that truck. They went by how many trucks they did</p> <p>15 per day. And it might be sometimes 10 minutes or</p> <p>16 15 minutes after I got supposed to been getting off</p> <p>17 before I got to the clock.</p> <p>18 Q. And are you making a claim for that</p> <p>19 time in this case?</p> <p>20 MR. STEENSLAND: Objection. You</p> <p>21 can answer.</p> <p>22 A. Yes.</p> <p>23 MR. FRY: That's all I have.</p> | <p style="text-align: right;">41</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |

**TAB 37**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
DOROTHY A. MCNAIR

\*\*\*\*\*

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|---|--|
| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of DOROTHY A. MCNAIR</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 22nd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-45</p> <p>4   MR. CAMP                 45-51</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   (No exhibits were</p> <p>8   submitted to said deposition.)</p> <p>9</p> <p>10   Reporter's Certificate         53</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. ROBERT J. CAMP</p> <p>5       THE COCHRAN FIRM, P.C.</p> <p>6       ATTORNEYS AT LAW</p> <p>7       505 North 20th Street</p> <p>8       Suite 825</p> <p>9       Birmingham, Alabama 35203</p> <p>10      (205) 244-1115</p> <p>11</p> <p>12   ON BEHALF OF THE DEFENDANT:</p> <p>13      MR. MALCOLM S. GOULD</p> <p>14      PELINO &amp; LENTZ</p> <p>15      ATTORNEYS AT LAW</p> <p>16      One Liberty Place</p> <p>17      Thirty-Second Floor</p> <p>18      1650 Market Street</p> <p>19      Philadelphia, Pennsylvania 19103</p> <p>20      (215) 665-1540</p> <p>21</p> <p>22   *****</p> <p>23</p> |

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified<br/> 2 Court Reporter of Eufaula, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at the Law Offices of WILLIAMS,<br/> 7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange<br/> 8 Avenue, Eufaula, Alabama 36027, beginning at<br/> 9 2:10 p.m., DOROTHY A. MCNAIR, witness in the above<br/> 10 cause, for oral examination, whereupon the<br/> 11 following proceedings were had:<br/> 12<br/> 13 DOROTHY A. MCNAIR,<br/> 14 being first duly sworn, was examined and<br/> 15 testified as follows:<br/> 16<br/> 17 THE COURT REPORTER: Usual<br/> 18 stipulations?<br/> 19 MR. CAMP: Yes.<br/> 20 MR. GOULD: Yes.<br/> 21<br/> 22 EXAMINATION<br/> 23 BY MR. GOULD:</p>  | <p style="text-align: right;">8</p> <p>1 full question before you give your answer.<br/> 2 If I ask a question and you're not certain<br/> 3 about what I mean or your don't understand the<br/> 4 question, just let me know and I'll repeat the<br/> 5 question or try and ask it a different way so it's<br/> 6 not so confusing.<br/> 7 If at any point you feel you need to take a<br/> 8 break, just let me know. If you do answer my<br/> 9 question, I'm going to assume that you understood<br/> 10 my question and that you are answering it<br/> 11 truthfully and to the best of your ability. Okay?<br/> 12 A. Okay.<br/> 13 Q. Can you please state your full name for the<br/> 14 record?<br/> 15 A. Dorothy Ann McNair.<br/> 16 Q. Now, have you been known by any other names?<br/> 17 Do you have a maiden name or any other name that<br/> 18 you go by?<br/> 19 A. No.<br/> 20 Q. Have you ever worked at the processing plant<br/> 21 in Baker Hill, Alabama?<br/> 22 A. Yes.<br/> 23 Q. Have you ever worked at the plant in Baker</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Ms. McNair. My name is<br/> 2 Malcolm Gould. I'm an attorney with the law firm<br/> 3 of Pelino &amp; Lentz in Philadelphia. I represent<br/> 4 Equity Group Eufaula Division, LLC, in a lawsuit<br/> 5 that's been filed in Federal Court in the Middle<br/> 6 District of Alabama. You are named as a plaintiff<br/> 7 in this lawsuit, and we're here today to take your<br/> 8 deposition.<br/> 9 I'm going to give you a few ground rules for<br/> 10 the deposition that will hopefully help it move a<br/> 11 little bit more smoothly.<br/> 12 As you can see, we have a court reporter<br/> 13 here. She's going to take down my questions and<br/> 14 your answers. Because of that, I would ask that<br/> 15 you keep all of your answers verbal. Just say yes<br/> 16 or no instead of nodding your head or shrugging<br/> 17 your shoulders or saying huh-uh or uh-huh; it will<br/> 18 make it easier for her to take down what your<br/> 19 answers are to my questions.<br/> 20 I would also ask that you wait until I<br/> 21 finish my question before you give your answer.<br/> 22 It's easier for her when we're not talking over<br/> 23 each other. It also means that you will hear my</p> | <p style="text-align: right;">9</p> <p>1 Hill, Alabama, during the time that it was owned<br/> 2 by Equity Group?<br/> 3 A. Yes.<br/> 4 Q. When was the last time you worked at the<br/> 5 processing plant?<br/> 6 A. When it was named Equity Group.<br/> 7 Q. Do you have an idea as to what year it was?<br/> 8 A. No.<br/> 9 MR. CAMP: Do you have a record of her?<br/> 10 You asked that like you don't have a record.<br/> 11 MR. GOULD: They have no record of her.<br/> 12 MR. CAMP: Would you like for me to<br/> 13 hold off on this one and let's see if I can get a<br/> 14 Social. If you'd asked me for a Social or<br/> 15 something, I could have helped you find her.<br/> 16 MR. GOULD: I understand.<br/> 17 Q. Do you have a Social Security number?<br/> 18 A. Yes.<br/> 19 Q. Can you provide that to me, please?<br/> 20 A. Yes.<br/> 21 Q. What is it?<br/> 22 A. 420-96-1541.<br/> 23 Q. How long did you work at the plant?</p>  |

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| <p style="text-align: right;">10</p> <p>1 A. About eight months.</p> <p>2 Q. And in what department did you work?</p> <p>3 A. Evis.</p> <p>4 Q. And do you have an idea as to when you</p> <p>5 started working at the plant?</p> <p>6 A. I don't remember.</p> <p>7 Q. During the time that you worked at the</p> <p>8 plant, were you employed in the evisceration</p> <p>9 department the entire time?</p> <p>10 A. Yes.</p> <p>11 Q. During the time you worked at the plant,</p> <p>12 were you a member of the union?</p> <p>13 A. No.</p> <p>14 Q. You understand that you are a plaintiff in</p> <p>15 this lawsuit, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And what's your understanding as to the</p> <p>18 claims that you are asserting in this lawsuit?</p> <p>19 A. Get paid for my wages that I wasn't -- that</p> <p>20 I -- getting paid for my wages that I wasn't --</p> <p>21 excuse me -- for my money that I needed for the</p> <p>22 time that I was working that I wasn't getting paid</p> <p>23 for.</p>   | <p style="text-align: right;">12</p> <p>1 misunderstood you. Can you describe for me what</p> <p>2 you did in that job?</p> <p>3 A. Yes. I had to take the birds off and -- as</p> <p>4 she called the birds, I had to take them off and</p> <p>5 hang them on the rack behind me.</p> <p>6 Q. Is that what -- the USDA would pull birds</p> <p>7 off the line; is that correct?</p> <p>8 A. No. I'd pull the birds off. She would call</p> <p>9 them.</p> <p>10 Q. So one of the USDA people would point to a</p> <p>11 bird?</p> <p>12 A. No, she wouldn't point to the bird; she'd</p> <p>13 just call them out, like, "gall," and then I'd</p> <p>14 take them off the line.</p> <p>15 Q. And there were different colors on the</p> <p>16 hangers that were holding the birds, and that's</p> <p>17 how you would know which one?</p> <p>18 A. No.</p> <p>19 Q. How would you know which one?</p> <p>20 A. I was trained.</p> <p>21 Q. So you could tell from looking which bird</p> <p>22 she was talking about?</p> <p>23 A. Yes.</p> |
| <p style="text-align: right;">11</p> <p>1 Q. So your claim is for hours you worked that</p> <p>2 you weren't paid for; is that correct?</p> <p>3 A. Yes. Hours I worked that I wasn't paid for.</p> <p>4 Q. Can you give me an example of some of the</p> <p>5 hours that you claim you worked but were not paid</p> <p>6 for?</p> <p>7 A. No.</p> <p>8 Q. When you say that there was time you worked</p> <p>9 and you weren't paid for it, what sort of</p> <p>10 activities were you doing that you claim that</p> <p>11 those activities were not paid?</p> <p>12 A. When I was putting on my PPE equipment.</p> <p>13 Q. Now, what do you mean when you say "PPE</p> <p>14 equipment"? Do you know what PPE stands for?</p> <p>15 A. My protective gear that I had to wear.</p> <p>16 Q. Did you work a particular position in the</p> <p>17 evisceration department?</p> <p>18 A. Yes.</p> <p>19 Q. What position did you work in?</p> <p>20 A. As a trimmer.</p> <p>21 Q. Can you say that again? What kind of --</p> <p>22 A. Trimmer.</p> <p>23 Q. Oh, as a trimmer. I'm sorry. I</p> | <p style="text-align: right;">13</p> <p>1 Q. And is that the only job that you worked in</p> <p>2 the evisceration department?</p> <p>3 A. No.</p> <p>4 Q. During the course of your shift, would you</p> <p>5 rotate between different positions?</p> <p>6 A. Yes.</p> <p>7 Q. And how many times a day would you rotate?</p> <p>8 A. I don't remember.</p> <p>9 Q. Would you normally rotate to a different</p> <p>10 position when you returned from a break?</p> <p>11 A. No. I don't remember.</p> <p>12 Q. Ms. McNair, how did you first find out about</p> <p>13 this lawsuit?</p> <p>14 A. I received a letter.</p> <p>15 Q. You received a letter in the mail?</p> <p>16 A. Yes.</p> <p>17 Q. And it had a form with it that you could</p> <p>18 fill out?</p> <p>19 A. No.</p> <p>20 Q. No? You just received a solicitation in the</p> <p>21 mail, "We have a lawsuit. Would you like to</p> <p>22 join?"</p> <p>23 MR. CAMP: Objection.</p>  |



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| <p style="text-align: right;">14</p> <p>1 A. No.</p> <p>2 Q. Do you recall who the letter was from?</p> <p>3 A. No.</p> <p>4 Q. Did you keep a copy of it?</p> <p>5 A. I don't keep up with mail. I just read it</p> <p>6 and --</p> <p>7 Q. So you received this letter, and then what</p> <p>8 did you do? Was there a phone number to call?</p> <p>9 A. Yes.</p> <p>10 Q. And do you remember what the phone number</p> <p>11 was for or who the phone number was for?</p> <p>12 A. I guess the number was for me. They sent it</p> <p>13 to me.</p> <p>14 Q. No, the phone number. You said there was a</p> <p>15 phone number in the letter; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And did you call that phone number?</p> <p>18 A. Yes.</p> <p>19 Q. And you told whoever picked up the phone</p> <p>20 that you wanted to join in this lawsuit; is that</p> <p>21 correct?</p> <p>22 A. No. I answered some questions that they</p> <p>23 asked me.</p> | <p style="text-align: right;">16</p> <p>1 meeting?</p> <p>2 A. No.</p> <p>3 Q. Was there a sign-in sheet? Were you asked</p> <p>4 to sign in?</p> <p>5 A. Yes.</p> <p>6 Q. During the time that you were employed out</p> <p>7 in the evisceration department, were there any</p> <p>8 items of clothing or equipment that you had to</p> <p>9 wear when you were out on the production floor?</p> <p>10 A. No. We had to wear the PPE equipment, the</p> <p>11 safety equipment.</p> <p>12 Q. So there were pieces of clothing or</p> <p>13 equipment that you had to wear?</p> <p>14 A. Equipment, yes; clothing, no.</p> <p>15 Q. I'm not going to ask you for a legal</p> <p>16 definition of what is clothing or what is not</p> <p>17 clothing.</p> <p>18 MR. CAMP: I think she can tell what</p> <p>19 clothing is versus what clothing isn't.</p> <p>20 Q. Can you list for me what items you would</p> <p>21 wear when you were out on the production floor?</p> <p>22 A. No clothing. I can list the equipment.</p> <p>23 Q. I said items. You can call it equipment,</p> |
| <p style="text-align: right;">15</p> <p>1 Q. Do you know where whoever sent you this</p> <p>2 letter got your name?</p> <p>3 A. No.</p> <p>4 Q. Did they tell you?</p> <p>5 A. No.</p> <p>6 Q. Other than this letter you received in the</p> <p>7 mail, have you had discussions with people other</p> <p>8 than your attorneys that relate to this lawsuit?</p> <p>9 A. No.</p> <p>10 Q. Have you attended any group meetings where</p> <p>11 this lawsuit was discussed?</p> <p>12 A. Yes.</p> <p>13 Q. And do you recall when those meetings were?</p> <p>14 A. I don't remember.</p> <p>15 Q. Did you attend a meeting this week?</p> <p>16 A. Yes.</p> <p>17 Q. And was that a meeting with your lawyers?</p> <p>18 A. Yes.</p> <p>19 Q. Did you bring anyone with you to the</p> <p>20 meeting?</p> <p>21 A. No.</p> <p>22 Q. Other than you and your lawyers, do you have</p> <p>23 an idea as to who else was in attendance at this</p>                         | <p style="text-align: right;">17</p> <p>1 clothing, whatever you want. It doesn't matter to</p> <p>2 me.</p> <p>3 Can you list the items that you wore when</p> <p>4 you were out on the production floor?</p> <p>5 A. We wore gloves, goggles, the arm guard, the</p> <p>6 chain glove, your earplugs, and the net on the</p> <p>7 hair.</p> <p>8 Q. And is that everything?</p> <p>9 A. And your beard thing if you've got facial</p> <p>10 hair.</p> <p>11 Q. Gloves, goggles, the arm guard, chain glove,</p> <p>12 and earplugs, and hair net?</p> <p>13 A. And arm sleeves and the apron and cotton</p> <p>14 gloves and rubber gloves.</p> <p>15 Q. And are these all things that you wore when</p> <p>16 you were out on the evis line?</p> <p>17 A. Yes.</p> <p>18 Q. And in your job as a trimmer, were you</p> <p>19 required to use scissors or a knife?</p> <p>20 A. Yes.</p> <p>21 Q. Which one? or both?</p> <p>22 A. Both.</p> <p>23 Q. Did you work any particular shift?</p>  |

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| <p style="text-align: right;">18</p> <p>1 A. Morning.</p> <p>2 Q. Did you have a particular start time?</p> <p>3 A. At six o'clock we had to be on the line.</p> <p>4 Q. 6 a.m.?</p> <p>5 A. Yes.</p> <p>6 Q. And did you have a scheduled time when your</p> <p>7 shift was to end?</p> <p>8 A. At three.</p> <p>9 Q. 3 p.m.?</p> <p>10 A. In the evening.</p> <p>11 Q. During the course of your shift, did you</p> <p>12 have any breaks?</p> <p>13 A. Yes.</p> <p>14 Q. And did those breaks normally occur at the</p> <p>15 same time every shift?</p> <p>16 A. Yes.</p> <p>17 Q. And how many breaks did you get?</p> <p>18 A. Two.</p> <p>19 Q. And how long were your breaks?</p> <p>20 A. 15 minutes.</p> <p>21 Q. You had two 15-minute breaks?</p> <p>22 A. Uh-huh.</p> <p>23 Q. And did those breaks normally occur at the</p>   | <p style="text-align: right;">20</p> <p>1 A. Sometimes they would let you through and</p> <p>2 sometimes you had to show your — they would stop</p> <p>3 you and you had to show your badge.</p> <p>4 Q. Your employee identification?</p> <p>5 A. Uh-huh.</p> <p>6 Q. After you would pull into the parking lot</p> <p>7 after getting past the gate, was there any other</p> <p>8 security that you had to clear?</p> <p>9 A. No.</p> <p>10 Q. Once you would park in the parking lot,</p> <p>11 would you normally go straight into the building?</p> <p>12 A. Yes.</p> <p>13 Q. Can you describe for me what you would do</p> <p>14 once you entered the building? What's the very</p> <p>15 next thing you would do?</p> <p>16 A. Well, if I needed equipment and stuff, I</p> <p>17 would go to supply and get in line so I could get</p> <p>18 it, my supplies.</p> <p>19 Q. Now, during the time that you were employed</p> <p>20 at the plant, did you have to wear boots?</p> <p>21 A. Yes.</p> <p>22 Q. Were you allowed to wear those boots from</p> <p>23 home?</p> |
| <p style="text-align: right;">19</p> <p>1 same time each shift?</p> <p>2 A. Yes.</p> <p>3 Q. When was your first break, if you remember?</p> <p>4 A. I don't remember.</p> <p>5 Q. Do you remember when your second break was?</p> <p>6 A. I don't know the exact time.</p> <p>7 Q. Now, during the time that you were employed</p> <p>8 at the plant, would you normally drive yourself to</p> <p>9 work?</p> <p>10 A. Yes.</p> <p>11 Q. When you arrived at the plant, was there any</p> <p>12 sort of security that you had to clear?</p> <p>13 A. Yes.</p> <p>14 Q. Can you describe that for me?</p> <p>15 A. You had to show a badge.</p> <p>16 Q. Was there a guard shack on the driveway to</p> <p>17 the plant?</p> <p>18 A. Yes.</p> <p>19 Q. And did you have, like, a sticker for your</p> <p>20 car?</p> <p>21 A. Yes.</p> <p>22 Q. If you had that sticker, could you just</p> <p>23 drive through the gate?</p> | <p style="text-align: right;">21</p> <p>1 A. No. They supplied boots.</p> <p>2 Q. Okay. Could you actually physically wear</p> <p>3 those boots outside of the plant?</p> <p>4 A. No.</p> <p>5 Q. So you indicated that you would go and pick</p> <p>6 up supplies; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Where would you get your supplies?</p> <p>9 A. From the supply room.</p> <p>10 Q. What sort of supplies would you get at the</p> <p>11 supply room?</p> <p>12 A. The ones that I needed for work.</p> <p>13 Q. Would they be any of these items in the list</p> <p>14 of things that you previously gave to me?</p> <p>15 A. Yes.</p> <p>16 Q. Was there anything that you would pick up</p> <p>17 every single day?</p> <p>18 A. Apron. There's several things. It depended</p> <p>19 on what I didn't have.</p> <p>20 Q. Would you need to get a new apron every day?</p> <p>21 A. Yes.</p> <p>22 Q. What did the apron look like?</p> <p>23 A. It was blue plastic.</p>   |

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| <p style="text-align: right;">22</p> <p>1 Q. So you wore a blue plastic apron; and you<br/>2 would get a new blue plastic apron every single<br/>3 day?<br/>4 A. Yes.<br/>5 Q. Were you required to get a new apron every<br/>6 day or could you reuse the apron if you wanted?<br/>7 A. I just liked to get a new one for sanitized<br/>8 purposes.<br/>9 Q. Did you observe other employees at the plant<br/>10 who did not get a new apron every day.<br/>11 A. No. I was just concerned about myself and<br/>12 my equipment.<br/>13 Q. After you would pick up whatever supplies<br/>14 that you needed, what would you do next?<br/>15 A. I would go back to the break room until time<br/>16 to go on the line. Because I would get there<br/>17 early and get my supplies.<br/>18 Q. What time would you normally arrive at the<br/>19 plant?<br/>20 A. I'd say about 5:20.<br/>21 Q. What time would you clock in?<br/>22 A. At six. Not six, but about five -- I'd say<br/>23 about 5:30.</p>   | <p style="text-align: right;">24</p> <p>1 Q. Did you wear boots or did you wear shoe<br/>2 covers?<br/>3 A. Boots.<br/>4 Q. Would you show up to work in your boots?<br/>5 A. No.<br/>6 Q. So you would put on your boots when you got<br/>7 to work?<br/>8 A. Yeah. After I got to work.<br/>9 Q. Where would you keep your boots? Would you<br/>10 take them home with you at the end of the shift or<br/>11 did you keep them at the plant?<br/>12 A. I kept them in my locker.<br/>13 Q. Was your locker in the break room?<br/>14 A. Yes.<br/>15 Q. In the evis break room?<br/>16 A. Yes.<br/>17 Q. Would you put on your boots while you were<br/>18 sitting in the break room waiting for the start of<br/>19 your shift?<br/>20 A. Yes.<br/>21 Q. So you would put your boots on before you<br/>22 went out onto the production floor, correct?<br/>23 A. Yes.</p>  |
| <p style="text-align: right;">23</p> <p>1 Q. So would you clock in before getting your<br/>2 supplies or after getting your supplies?<br/>3 A. I would get my supplies first before I<br/>4 clocked in.<br/>5 Q. All right. And then you would go into the<br/>6 break room. Would you normally clock in when you<br/>7 first got into the break room, after getting your<br/>8 supplies?<br/>9 A. I would get my supplies first, then go to<br/>10 the break room; then at 5:30 I would clock in.<br/>11 Q. What would you do while you were sitting in<br/>12 the break room waiting for the start of your<br/>13 shift?<br/>14 A. Talking.<br/>15 Q. So you would socialize with other employees?<br/>16 A. Yes.<br/>17 Q. Would you put any of your items of equipment<br/>18 or clothing on while you were in the break room?<br/>19 A. No.<br/>20 Q. Would you put on your boots at some point in<br/>21 time before the start of your shift?<br/>22 A. Well, I would put on all my stuff when I'd<br/>23 get in the work area, before I'd get on the line.</p> | <p style="text-align: right;">25</p> <p>1 Q. Would you put on any other items before you<br/>2 went out onto the production floor?<br/>3 A. No.<br/>4 Q. When would you put on your hair net?<br/>5 A. As I'm entered into...<br/>6 Q. So you would do that while you were walking<br/>7 out onto the production floor?<br/>8 A. Uh-huh.<br/>9 Q. Is that yes?<br/>10 A. Yes.<br/>11 Q. All right. Approximately what time would<br/>12 you leave the break room to go out to the<br/>13 production floor?<br/>14 A. I can't estimate.<br/>15 Q. Would you look at the clock to determine<br/>16 what time you should go out to the production<br/>17 floor?<br/>18 A. No.<br/>19 Q. Well, your shift, I think you indicated,<br/>20 started at six; is that correct?<br/>21 A. I have to be on the line at six.<br/>22 Q. So would you look at the clock to make sure<br/>23 that you were going out to the production area</p> |

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| <p style="text-align: right;">26</p> <p>1 before six?</p> <p>2 A. Normally I would ask somebody what time it</p> <p>3 is.</p> <p>4 Q. All right. And was there a particular time</p> <p>5 before six that you would head out to the</p> <p>6 production floor?</p> <p>7 A. I don't understand that.</p> <p>8 Q. You said you might ask somebody what time it</p> <p>9 was. Was that because you had a particular time</p> <p>10 when you would head out to the floor? In other</p> <p>11 words, would you normally head out there at 5:30</p> <p>12 or 5:55? Was there a particular time that you</p> <p>13 would normally go out onto the production floor?</p> <p>14 A. Yes. I had to go out time enough to put my</p> <p>15 gear on.</p> <p>16 Q. Would you normally head out at the same time</p> <p>17 every day?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know what time that was?</p> <p>20 A. I don't recall.</p> <p>21 Q. So when you would leave the break room going</p> <p>22 out to the production floor, you would already</p> <p>23 have your boots on, correct?</p> | <p style="text-align: right;">28</p> <p>1 Q. Were there also sinks there?</p> <p>2 A. On the side.</p> <p>3 Q. And that's where you would put on your other</p> <p>4 items?</p> <p>5 A. Yes.</p> <p>6 Q. Would you put on all of your items first or</p> <p>7 would you do something else? You indicated you</p> <p>8 came in through the double doors and you would go</p> <p>9 to start putting on your equipment; is that</p> <p>10 correct?</p> <p>11 A. My PPE equipment. I would put that on.</p> <p>12 Q. And then what would you do after you put</p> <p>13 that on?</p> <p>14 A. I would get on line.</p> <p>15 Q. Approximately how long would it take you to</p> <p>16 put on your various pieces of equipment before you</p> <p>17 head out to the line?</p> <p>18 A. I couldn't give you a certain time. Each</p> <p>19 item, I couldn't do that.</p> <p>20 Q. How long would it take you to put on all of</p> <p>21 it?</p> <p>22 A. I couldn't say.</p> <p>23 Q. Now, was there a particular position on the</p>   |
| <p style="text-align: right;">27</p> <p>1 A. Yes.</p> <p>2 Q. And then you would get up to the double</p> <p>3 doors that go out to the production floor,</p> <p>4 correct?</p> <p>5 A. Do what now?</p> <p>6 Q. As you were leaving the break room, there</p> <p>7 are double doors through which you would enter</p> <p>8 onto the production floor; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. What was the next thing you would do after</p> <p>11 you passed through the double doors?</p> <p>12 A. I would put my net on before I entered.</p> <p>13 Q. And then what was the next thing you would</p> <p>14 do?</p> <p>15 A. I would put the rest of my gear on.</p> <p>16 Q. So you would pass into the production area</p> <p>17 and put your gear on; is that correct?</p> <p>18 A. I'd come through the double doors. And</p> <p>19 there's a section where the hangers be where you</p> <p>20 can put your stuff up there so you can put it on.</p> <p>21 Q. So there were racks inside the door; is that</p> <p>22 correct?</p> <p>23 A. Uh-huh.</p>            | <p style="text-align: right;">29</p> <p>1 line that you would start your shift? Would you</p> <p>2 start your shift at that trimmer position?</p> <p>3 A. Yes.</p> <p>4 Q. And where was that located on the evis line?</p> <p>5 Was that towards the front of the line or was that</p> <p>6 towards the end of the line?</p> <p>7 A. Well, if you look at it coming in, I was the</p> <p>8 first one. If you're on the right-hand side, I</p> <p>9 was the first one.</p> <p>10 Q. All right. So you were actually then</p> <p>11 towards the back end of the evis line; is that</p> <p>12 correct?</p> <p>13 A. No. I was at the front, because it would be</p> <p>14 on the right-hand side.</p> <p>15 Q. Okay. I understand what you're saying.</p> <p>16 A. Coming into the double doors.</p> <p>17 Q. And what is your understanding as to what</p> <p>18 time you had to be on the line?</p> <p>19 A. Six o'clock.</p> <p>20 Q. During the course of the shift, you said you</p> <p>21 got two breaks; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. How would you know when it was time to go</p> |

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| <p style="text-align: right;">30</p> <p>1 out on break?</p> <p>2 A. They would let you know.</p> <p>3 Q. The supervisor would tell you it was time go</p> <p>4 on break?</p> <p>5 A. Yes.</p> <p>6 Q. And would somebody come on and relieve you</p> <p>7 at your position?</p> <p>8 A. No.</p> <p>9 Q. Would birds stop coming down the line?</p> <p>10 A. Yes.</p> <p>11 Q. And once the last bird passed your position</p> <p>12 on the line, you could go out on break?</p> <p>13 A. Yes.</p> <p>14 Q. And can you describe for me what you would</p> <p>15 do after the last bird passed your position on the</p> <p>16 line?</p> <p>17 A. I would wash my hands and pass my hand</p> <p>18 glove. The chain glove, I had to put it in --</p> <p>19 somebody would come around and I would drop it in</p> <p>20 the pan, because they would take them up.</p> <p>21 Q. So someone would pick up your chain glove at</p> <p>22 your position on the line?</p> <p>23 A. Yes. They would come by and you would drop</p> | <p style="text-align: right;">32</p> <p>1 Q. So after you've dropped off your chain glove</p> <p>2 when you were getting off of the line, what would</p> <p>3 you do next when you were going out on break?</p> <p>4 A. I would wash my hands, and then I would go</p> <p>5 and take my PPE equipment off and go to break.</p> <p>6 Q. Approximately how long would it take you</p> <p>7 from the time you stepped off of the line to the</p> <p>8 time you left the production floor?</p> <p>9 A. I can't estimate that.</p> <p>10 Q. And how long was that break?</p> <p>11 A. 15 minutes.</p> <p>12 Q. And how would you know when it was time to</p> <p>13 come back from break?</p> <p>14 A. I would ask someone what time it is.</p> <p>15 Q. And what would you normally do when you got</p> <p>16 out to the break room?</p> <p>17 A. Talk.</p> <p>18 Q. Socialize; is that right?</p> <p>19 A. I would conversate, talk.</p> <p>20 Q. All right. Would you get anything to eat or</p> <p>21 anything to drink?</p> <p>22 A. Sometimes I did; sometimes I didn't.</p> <p>23 Q. And then when it was time for you to come</p> |
| <p style="text-align: right;">31</p> <p>1 it in the pan that they had.</p> <p>2 Q. Were the chain gloves provided to you out on</p> <p>3 the production floor as well?</p> <p>4 A. Yes.</p> <p>5 Q. Was there a station where you would pick it</p> <p>6 up on your way to your position on the line?</p> <p>7 A. Yes.</p> <p>8 Q. A table or something that they laid them out</p> <p>9 on?</p> <p>10 A. Yes.</p> <p>11 Q. And I believe you said you worked with a</p> <p>12 knife and scissors; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Were you responsible for getting your knife</p> <p>15 at the beginning of the shift?</p> <p>16 A. No. Someone would come around and bring</p> <p>17 them.</p> <p>18 Q. And the same thing with the scissors?</p> <p>19 A. Yes.</p> <p>20 Q. And you weren't responsible for going to a</p> <p>21 knife room or something like that to pick up your</p> <p>22 knife and scissors?</p> <p>23 A. No.</p>  | <p style="text-align: right;">33</p> <p>1 back from break, what would you do between the</p> <p>2 time that you would leave the break room and get</p> <p>3 back to your position on the line?</p> <p>4 A. What you mean?</p> <p>5 Q. Well, you said that you would ask people</p> <p>6 what time it was so you could keep track of the</p> <p>7 time, correct?</p> <p>8 A. Yes.</p> <p>9 Q. There would come a point in time where you</p> <p>10 decided you had to come back from break; is that</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know what time your break normally</p> <p>14 started?</p> <p>15 A. No.</p> <p>16 Q. Do you know what time you would normally</p> <p>17 leave the break room?</p> <p>18 A. I can't recall.</p> <p>19 Q. What would you do after you left the break</p> <p>20 room to return from break?</p> <p>21 A. I'd do all that again, put on my PPE; then I</p> <p>22 would go back to my work area and work.</p> <p>23 Q. What items would you be wearing? Would you</p>   |



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| <p style="text-align: right;">34</p> <p>1 be wearing your boots?</p> <p>2 A. Yes.</p> <p>3 Q. What about your hair net? Would you be</p> <p>4 wearing your hair net?</p> <p>5 A. When I enter the doors, I put my hair net</p> <p>6 on.</p> <p>7 Q. You might take your hair net off when you</p> <p>8 went out to the break room; is that correct?</p> <p>9 A. Talking about when I go out?</p> <p>10 Q. Yes, ma'am. When you went out to break.</p> <p>11 A. Yes.</p> <p>12 Q. Could you wear your hair net in the break</p> <p>13 room if you wanted?</p> <p>14 A. No.</p> <p>15 Q. Where would you normally take your break? in</p> <p>16 the break room or outside?</p> <p>17 A. Sometimes I'd go outside; sometimes I'd go</p> <p>18 in the break room.</p> <p>19 Q. If you stayed inside, could you keep your</p> <p>20 hair net on?</p> <p>21 A. I always took mine off.</p> <p>22 Q. If you went outside, could you keep your</p> <p>23 boots on?</p>   | <p style="text-align: right;">36</p> <p>1 anything else?</p> <p>2 A. We didn't put no clothing on; just the PPE</p> <p>3 equipment.</p> <p>4 Q. I'll call it PPE if that's what you want to</p> <p>5 call it. It makes no difference to me.</p> <p>6 A. That's what it was.</p> <p>7 Q. Would you put on your gloves?</p> <p>8 A. I would put all my equipment on after I get</p> <p>9 back in there from break.</p> <p>10 Q. So you would put on your gloves; is that</p> <p>11 correct?</p> <p>12 A. Cotton gloves and rubber gloves and chain</p> <p>13 glove when they come back through. When I get on</p> <p>14 the line, they will come through and give me my</p> <p>15 chain glove; then I'd put it back on.</p> <p>16 Q. So you wouldn't put on your chain glove when</p> <p>17 you passed through the doors; you would get it on</p> <p>18 the line; is that correct?</p> <p>19 A. Right.</p> <p>20 Q. Would you put your smock back on?</p> <p>21 A. Yes. And the apron, the sleeves and</p> <p>22 everything, after I get back in there from break.</p> <p>23 Q. All right. When you returned from break,</p> |
| <p style="text-align: right;">35</p> <p>1 A. No.</p> <p>2 Q. You would have to take your boots off,</p> <p>3 during the time that you worked at the plant?</p> <p>4 A. Yes.</p> <p>5 Q. But if you stayed inside, you could keep</p> <p>6 them on?</p> <p>7 A. Inside where?</p> <p>8 Q. If you stayed inside the plant, could you</p> <p>9 keep your boots on?</p> <p>10 A. Yeah, as long as you was inside the break</p> <p>11 room.</p> <p>12 Q. And you indicated you would go back out to</p> <p>13 the production floor and you would put your stuff</p> <p>14 back on; is that correct?</p> <p>15 A. I'd put on my PPE equipment, yes.</p> <p>16 Q. Can you describe for me exactly what you</p> <p>17 would do as you passed through the doors to go</p> <p>18 back onto the production floor?</p> <p>19 A. I would put my hair net back on; and then</p> <p>20 when I get in there, I'd go to the rack and get my</p> <p>21 gear and I'd put it back on and go to the line.</p> <p>22 Q. And other than putting your items of</p> <p>23 equipment or clothing back on, would you do</p> | <p style="text-align: right;">37</p> <p>1 would you go back to the trimmer position?</p> <p>2 A. Yes.</p> <p>3 Q. So you wouldn't go to a different position</p> <p>4 on the line?</p> <p>5 A. It all depends. Sometimes they'll switch</p> <p>6 out; sometimes they don't.</p> <p>7 Q. So sometimes you might go to a different</p> <p>8 position?</p> <p>9 A. Yeah, sometimes; sometimes not.</p> <p>10 Q. And in terms of what you would do before and</p> <p>11 after your first break, was it pretty much the</p> <p>12 same as what you would do before and after your</p> <p>13 second break?</p> <p>14 A. Yes, about the same.</p> <p>15 Q. And it would take about the same amount of</p> <p>16 time before and after your first and second break?</p> <p>17 A. Yes.</p> <p>18 Q. Now, when you returned from your second</p> <p>19 break, would you go to a different position on the</p> <p>20 line than you were stationed before your second</p> <p>21 break?</p> <p>22 A. No. It all depends. Sometimes they would</p> <p>23 switch you out; sometimes they wouldn't.</p>                                    |

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| <p style="text-align: right;">38</p> <p>1 Q. Did you have a scheduled end time for your<br/>2 shift?<br/>3 A. Three o'clock.<br/>4 Q. How would you know when you were able to<br/>5 leave the line at the end of your shift?<br/>6 A. A buzzer would go off.<br/>7 Q. Would birds stop coming down the line again?<br/>8 A. Yeah. I'd have to wait until the last bird<br/>9 passed me, and then I have to -- somebody be<br/>10 waiting there. The other shift, they be waiting<br/>11 to take my spot. And I can't get down off the<br/>12 line until somebody is there to relieve me.<br/>13 Q. So it's a walk-on/walk-off type of deal?<br/>14 Somebody else would walk on to take your position<br/>15 and you would walk off; is that correct?<br/>16 A. Yeah, after they relieve me. If nobody<br/>17 don't come to relieve you, then you have to stay<br/>18 there until the supervisor gets somebody to take<br/>19 your place.<br/>20 Q. Do you know whether or not you would be paid<br/>21 for that time if you had to stay and wait?<br/>22 A. No, I don't know.<br/>23 Q. Was there ever a time where you had to wait</p> | <p style="text-align: right;">40</p> <p>1 Q. You never -- did you talk to anyone other<br/>2 than your supervisor about it?<br/>3 A. No. I just talked to him. I figured that's<br/>4 who I needed to talk to.<br/>5 Q. And is this part of what you are claiming in<br/>6 this lawsuit, this time?<br/>7 A. Yes. And not getting paid the money I've<br/>8 worked for the hours I worked.<br/>9 Q. After somebody came to the line to relieve<br/>10 you, what would you do after you left the line but<br/>11 before you left the production area?<br/>12 A. After I left the line?<br/>13 Q. Yes, ma'am.<br/>14 A. Well, I would reach over and wash my hands,<br/>15 and then I would give them the chain glove; take<br/>16 it off and give it to the next person that's<br/>17 taking my place. And I had to turn in the knives<br/>18 and the scissors because we had to turn that in<br/>19 each day.<br/>20 Q. And would someone come around to collect the<br/>21 knife and scissors?<br/>22 A. Yes.<br/>23 Q. And then what would you do after that?</p> |
| <p style="text-align: right;">39</p> <p>1 for someone to relieve you, and afterwards, you<br/>2 complained to your supervisor that you weren't<br/>3 being paid for that time?<br/>4 A. Yes.<br/>5 Q. How often did that happen?<br/>6 A. Pretty regular.<br/>7 Q. That you would complain to your supervisor?<br/>8 A. Yes.<br/>9 Q. Who was your supervisor?<br/>10 A. Bobby Burnett.<br/>11 Q. And what did he do or say?<br/>12 A. He said he had to look over the whatcha call<br/>13 it and see why the time wasn't right.<br/>14 Q. All right. So you would get your paycheck,<br/>15 you would see it, you would believe that your<br/>16 weren't paid properly, and you would complain to<br/>17 him?<br/>18 A. Yes.<br/>19 Q. And were you ever paid for that extra time?<br/>20 A. No.<br/>21 Q. So any time you complained, you were not<br/>22 paid?<br/>23 A. No.</p>  | <p style="text-align: right;">41</p> <p>1 A. I would get down off the line and I would<br/>2 take my equipment off.<br/>3 Q. So you would take off your apron; is that<br/>4 correct?<br/>5 A. Yes.<br/>6 Q. Your gloves and your sleeves?<br/>7 A. My cotton gloves and my rubber gloves, I<br/>8 would take them off, and my sleeves and my arm<br/>9 guard and my hair net and all.<br/>10 Q. And then you would leave the production<br/>11 area?<br/>12 A. Yeah. I would leave the area over there<br/>13 where we have all the equipment hanging.<br/>14 Q. Would you still be wearing your boots?<br/>15 A. No. I would take my boots off when I got<br/>16 ready to -- sometimes I would take them off in<br/>17 there. Sometimes I'd go out and just take them<br/>18 off in the break room.<br/>19 Q. But you would keep your boots on while you<br/>20 were still inside the actual production area,<br/>21 inside the double doors where all the machines<br/>22 were? You wouldn't take your boots off in that<br/>23 area, would you?</p>             |



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| <p style="text-align: right;">42</p> <p>1 A. Sometimes I did.</p> <p>2 Q. Wouldn't your feet get wet?</p> <p>3 A. Yes.</p> <p>4 Q. Were you supposed to take your boots off</p> <p>5 inside the production area?</p> <p>6 A. No. After you go -- after you get through</p> <p>7 pulling your stuff off over in that area where you</p> <p>8 hang the stuff at, you go through the double</p> <p>9 doors. It's like a little section closed off from</p> <p>10 the work area. And I'd take them off right there.</p> <p>11 Q. Approximately how long would it take you</p> <p>12 from the time you left the line at the end of your</p> <p>13 shift to the time that you exited the production</p> <p>14 area through those double doors?</p> <p>15 A. I can't say.</p> <p>16 Q. And after you exited the production area</p> <p>17 through the double doors, what would you do next?</p> <p>18 A. After I what now?</p> <p>19 Q. After you left the production area, you've</p> <p>20 exited through those double doors into the</p> <p>21 hallway, what would you do next?</p> <p>22 A. I would go to the break room. Talking about</p> <p>23 on the way home?</p> | <p style="text-align: right;">44</p> <p>1 that. Yeah, we had to wash it.</p> <p>2 Q. You would take that home and wash it?</p> <p>3 A. Yes.</p> <p>4 Q. Now, do you have an understanding as to how,</p> <p>5 when the time for which the company was actually</p> <p>6 paying you, when that started?</p> <p>7 A. From six to three.</p> <p>8 Q. Do you have an --</p> <p>9 MR. GOULD: Strike that.</p> <p>10 Q. So you believe that you were paid from six</p> <p>11 to three?</p> <p>12 A. Uh-huh.</p> <p>13 Q. And that time was fixed; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. So you weren't paid from the time you swiped</p> <p>16 in to the time you swiped out; is that correct?</p> <p>17 A. Well, we had to be swiped with a master</p> <p>18 card. The supervisor used a master card to swipe</p> <p>19 you in.</p> <p>20 Q. And where would these supervisors swipe the</p> <p>21 master card? Do you know?</p> <p>22 A. No.</p> <p>23 Q. Did you ever watch the supervisor swipe the</p> |
| <p style="text-align: right;">43</p> <p>1 Q. Yes, ma'am.</p> <p>2 A. I would go to the break room and I would get</p> <p>3 my stuff out of my locker and stuff, use the</p> <p>4 bathroom if I have to use it, and I would clock</p> <p>5 out.</p> <p>6 Q. Now, at the time you worked at the plant,</p> <p>7 did you take your smock home with you?</p> <p>8 A. No.</p> <p>9 Q. Was there a bin where you would throw your</p> <p>10 smock when you were done with it?</p> <p>11 A. Yes.</p> <p>12 Q. So you didn't have to take your smock home</p> <p>13 and wash it; is that right?</p> <p>14 A. No. I would get an apron every morning.</p> <p>15 Q. All right. Now, if I say "smock," does that</p> <p>16 mean something different to you than an apron?</p> <p>17 A. I called it an apron.</p> <p>18 Q. Okay. Did you wear like a white smock every</p> <p>19 day?</p> <p>20 A. Oh, you're talking about the coat. Jacket I</p> <p>21 call it.</p> <p>22 Q. Okay.</p> <p>23 A. That's why you threw me off when you said</p>   | <p style="text-align: right;">45</p> <p>1 master card?</p> <p>2 A. No.</p> <p>3 Q. And at the end of a shift, is it your</p> <p>4 understanding that the supervisor would swipe a</p> <p>5 master card as well? Is that what you're saying?</p> <p>6 A. I don't know.</p> <p>7 Q. But you weren't paid from the time you</p> <p>8 clocked in until the time you swiped out; is that</p> <p>9 correct?</p> <p>10 A. I was paid for eight hours of work.</p> <p>11 Q. I don't think there's any more questions I</p> <p>12 have for you, ma'am.</p> <p>13 A. Okay.</p> <p>14 MR. CAMP: I've got a few.</p> <p>15 BY MR. CAMP:</p> <p>16 Q. You said that you rotated, that you would</p> <p>17 rotate occasionally?</p> <p>18 A. Yes.</p> <p>19 Q. How often would you do that? Would that be</p> <p>20 daily? Would you rotate within other positions</p> <p>21 within evis daily?</p> <p>22 A. Yes.</p> <p>23 Q. How many different positions would you</p>   |

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| <p style="text-align: right;">46</p> <p>1 rotate into?</p> <p>2 A. It would depend on where they wanted you.</p> <p>3 Q. Where who wanted you?</p> <p>4 A. The supervisor. Where you were needed.</p> <p>5 Q. Do you know why they would need you</p> <p>6 somewhere else at some point? Did they tell you</p> <p>7 why they were moving you, or did they just move</p> <p>8 you?</p> <p>9 A. They would just move you.</p> <p>10 Q. So have you worked every position in evis?</p> <p>11 A. No, not every.</p> <p>12 Q. How many positions would you think?</p> <p>13 A. Three.</p> <p>14 Q. And you said that you can't wear your boots</p> <p>15 outside?</p> <p>16 A. Uh-huh.</p> <p>17 Q. So you would have to take those off at the</p> <p>18 end of the day before going home?</p> <p>19 A. Yes.</p> <p>20 Q. And you would have to put those on inside</p> <p>21 the plant at the beginning of the day?</p> <p>22 A. Yes.</p> <p>23 Q. Did you ever have to sanitize those boots in</p> | <p style="text-align: right;">48</p> <p>1 Q. How often did you have to wash the items</p> <p>2 that you did wash? Would you do it at the</p> <p>3 beginning of the day?</p> <p>4 A. Yes.</p> <p>5 Q. On breaks?</p> <p>6 A. No.</p> <p>7 Q. Not at the end of the break? Before you</p> <p>8 went into the break room would you wash it?</p> <p>9 A. No.</p> <p>10 Q. Okay. And when you came back from the break</p> <p>11 room would you wash it?</p> <p>12 A. No, because I would hang them up.</p> <p>13 Q. Okay. And at the end of the day would you</p> <p>14 wash them before going home?</p> <p>15 A. Yes, I would wash them off.</p> <p>16 Q. Right. You said a buzzer told you when the</p> <p>17 shift was over?</p> <p>18 A. A buzzer would sound. You know, it would</p> <p>19 make a noise. It's like an alarm or whatever. It</p> <p>20 would go "beeeeeep," like that there. Then the</p> <p>21 line would stop.</p> <p>22 Q. So the buzzer would go off and you would</p> <p>23 wait for the --</p>                         |
| <p style="text-align: right;">47</p> <p>1 any way, clean them before going into production?</p> <p>2 A. (No response.)</p> <p>3 Q. A foot bath or anything like that?</p> <p>4 A. No.</p> <p>5 Q. You could just put them on and walk out into</p> <p>6 the plant?</p> <p>7 A. Yes.</p> <p>8 Q. Did you ever wash any of your PPE?</p> <p>9 A. Yes.</p> <p>10 Q. What articles would you wash? What items</p> <p>11 would you wash?</p> <p>12 A. My hand guard and my sleeves. I washed them</p> <p>13 off before I, you know...</p> <p>14 Q. The hand guard is the hard one?</p> <p>15 A. Yeah.</p> <p>16 Q. And then you would wash the sleeves?</p> <p>17 A. Uh-huh.</p> <p>18 Q. You wore rubber gloves?</p> <p>19 A. Yes.</p> <p>20 Q. Did you wash those?</p> <p>21 A. No. I'd throw those away.</p> <p>22 Q. And obtain new ones the next day?</p> <p>23 A. Yes.</p>   | <p style="text-align: right;">49</p> <p>1 A. The relief person.</p> <p>2 Q. The relief person. Was this before you went</p> <p>3 and took off all your clothing?</p> <p>4 A. Yes, that's before.</p> <p>5 Q. Or PPE. Sorry.</p> <p>6 A. It's not clothing.</p> <p>7 Q. And you washed your stuff. This buzzer goes</p> <p>8 off before that, correct?</p> <p>9 A. Yes.</p> <p>10 Q. You said a lady comes around and collects</p> <p>11 your knives or scissors? Did you say that?</p> <p>12 A. Someone would come around. It don't</p> <p>13 necessarily be a lady. Sometimes it's a woman;</p> <p>14 sometimes it's a man.</p> <p>15 Q. They would collect it in what?</p> <p>16 A. It's a pan, like.</p> <p>17 Q. Does that happen after the buzzer?</p> <p>18 A. Yeah. After the buzzer sounds and the</p> <p>19 person come relieves me, then they would come</p> <p>20 around.</p> <p>21 Q. And so you'd wait there?</p> <p>22 A. Until they come around to in front of my</p> <p>23 booth, and then I have to drop it in the pan.</p> |

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| <p style="text-align: right;">50</p> <p>1 Q. And then you would walk --</p> <p>2 A. I'll wash my hands, and then I would walk</p> <p>3 down off the stand. And then the relief person,</p> <p>4 she would get up, and they would give her her</p> <p>5 knife.</p> <p>6 Q. Do you have your gloves on when you wash</p> <p>7 your hands?</p> <p>8 A. No. I have to take off the chain glove.</p> <p>9 Q. So you said you wash your hands. What are</p> <p>10 you washing?</p> <p>11 A. The gloves will be on. The chain glove will</p> <p>12 be off. I hand that to them. Then the rubber</p> <p>13 gloves, I'll have them on. And I'll just reach up</p> <p>14 and wash, like that (demonstrating).</p> <p>15 Q. So you're not washing your hands; you're</p> <p>16 washing the rubber gloves?</p> <p>17 A. Yes.</p> <p>18 Q. And then you would walk --</p> <p>19 A. I'd walk to the area to take my PPE</p> <p>20 equipment off.</p> <p>21 Q. And then you would wash your apron?</p> <p>22 A. Uh-huh.</p> <p>23 Q. And your sleeves?</p> | <p style="text-align: right;">52</p> <p>1 Q. That's all I have.</p> <p>2 MR. GOULD: I don't have any other</p> <p>3 questions. Thank you for your time.</p> <p>4</p> <p>5 (The deposition was concluded.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">51</p> <p>1 A. Yeah.</p> <p>2 Q. You would go out the double doors?</p> <p>3 A. Yes.</p> <p>4 Q. And you would have to take off your boots?</p> <p>5 A. Yes.</p> <p>6 Q. You could take your smock home; is that what</p> <p>7 we said?</p> <p>8 A. Yes.</p> <p>9 Q. And then --</p> <p>10 A. I would wash that.</p> <p>11 Q. You would wash that at the house?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. You don't remember what year --</p> <p>14 A. No, I don't remember.</p> <p>15 Q. Do you have a nickname?</p> <p>16 A. Several.</p> <p>17 Q. Are they nicknames you can tell us?</p> <p>18 A. Dee.</p> <p>19 Q. Dee?</p> <p>20 A. I have that tattooed on me.</p> <p>21 Q. Okay. We'll just have to work to try to</p> <p>22 find you.</p> <p>23 A. Okay.</p>  | <p style="text-align: right;">53</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 BARBOUR COUNTY</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription, and that the foregoing represents</p> <p>11 a true and correct transcript of the testimony</p> <p>12 given by said witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor kin to the parties to the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18</p> <p>19 CYNTHIA M. NOAKES, Commissioner</p> <p>20 Certified Court Reporter,</p> <p>21 ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23 Commission Expires 07/08/2009</p> |

**TAB 38**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,  
Plaintiff(s),

vs.

EQUITY GROUP EUFAULA  
DIVISION, LLC,  
Defendant(s).

DEPOSITION OF  
RENNA MERRILL

JOB NO. 1101-58403

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p>2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 22nd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of RENNA MERRILL may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 22nd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p>4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6, 30</p> <p>5 Mr. Underwood 29</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 Merrill Exhibit 1 25</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p>3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p>5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 Carl E. Underwood, III, Esq.</p> <p>5 THE COCHRAN FIRM</p> <p>6 163 West Main Street</p> <p>7 Dothan, Alabama 36302</p> <p>8</p> <p>9 M. John Steensland, III, Esq.</p> <p>10 PARKMAN, ADAMS &amp; WHITE</p> <p>11 739 West Main Street</p> <p>12 Dothan, Alabama 36301</p> <p>13</p> <p>14 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>15 Gary D. Fry, Esq.</p> <p>16 Pelino &amp; Lentz</p> <p>17 One Liberty Place</p> <p>18 Thirty-Second Floor</p> <p>19 1650 Market Street</p> <p>20 Philadelphia, Pennsylvania 19103</p> <p>21</p> <p>22 *****</p> <p>23</p> |

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| <p style="text-align: right;">6</p> <p>1 I, Victoria M. Castillo, a Court<br/> 2 Reporter of Montgomery, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 7 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 8 36027, commencing at 3:19 p.m., RENNA MERRILL, in<br/> 9 the above cause, for oral examination, whereupon<br/> 10 the following proceedings were had:<br/> 11<br/> 12 RENNA MERRILL,<br/> 13 being first duly sworn, was examined and<br/> 14 testified as follows:<br/> 15<br/> 16 EXAMINATION BY MR. FRY:<br/> 17 Q. Good afternoon, Ms. Merrill. How are<br/> 18 you?<br/> 19 A. A little hungry.<br/> 20 Q. My name is Gary Fry. I am one of the<br/> 21 lawyers representing Equity Group Eufaula, the<br/> 22 folks that operate the plant in Baker Hill, and we<br/> 23 have asked you to come here today to put some</p>  | <p style="text-align: right;">8</p> <p>1 A. Yes.<br/> 2 Q. What's your home address?<br/> 3 A. 79 County Road 36, Eufaula, Alabama.<br/> 4 Q. What's your date of birth?<br/> 5 A. 11/30/47.<br/> 6 Q. Are you presently employed?<br/> 7 A. Yes.<br/> 8 Q. By whom?<br/> 9 A. Keystone, Equity Group.<br/> 10 Q. How long have you worked for Equity?<br/> 11 A. Be ten years August 6th.<br/> 12 Q. So you started in 1998?<br/> 13 A. Yes.<br/> 14 Q. When you started, the plant was run<br/> 15 by CP, correct?<br/> 16 A. Yes.<br/> 17 Q. What's your present job at the plant?<br/> 18 A. Debone.<br/> 19 Q. Do you work on the debone line?<br/> 20 A. Yes.<br/> 21 Q. What shift?<br/> 22 A. First shift.<br/> 23 Q. What are your hours, when do you</p> |
| <p style="text-align: right;">7</p> <p>1 questions to you concerning a lawsuit which you and<br/> 2 some other folks have filed against the company.<br/> 3 Have you ever been in a deposition before?<br/> 4 A. No.<br/> 5 Q. Briefly, I'm going to be asking you<br/> 6 some questions, and you will be giving me some<br/> 7 answers, and Victoria, our court reporter, will be<br/> 8 taking down what we say. If you don't understand<br/> 9 any of my questions, please let me know and I will<br/> 10 try and rephrase it so you will understand it. All<br/> 11 right?<br/> 12 A. Okay.<br/> 13 Q. If you don't hear anything I say,<br/> 14 similarly, let me know and I will repeat it. If<br/> 15 you answer a question, I will assume that you heard<br/> 16 it and understood it and answered truthfully.<br/> 17 Okay?<br/> 18 A. Uh-huh.<br/> 19 Q. The only other requests that I have<br/> 20 are that you -- in response to any question I have,<br/> 21 make it a verbal response and don't nod or shake<br/> 22 your head because she can't take that down, and<br/> 23 let's not try and talk over one another. Okay?</p> | <p style="text-align: right;">9</p> <p>1 start?<br/> 2 A. 7:30.<br/> 3 Q. Until when?<br/> 4 A. 4:30.<br/> 5 Q. That's 7:30 a.m. to 4:30 p.m.<br/> 6 A. Yes.<br/> 7 Q. What do you do in the debone line?<br/> 8 A. Put the meat through the skinner.<br/> 9 Q. You do any other jobs on the line?<br/> 10 A. Check the breast meat.<br/> 11 Q. How long have you worked on the<br/> 12 debone line?<br/> 13 A. Ten years.<br/> 14 Q. That's the only job you've ever had<br/> 15 at the plant?<br/> 16 A. Yes.<br/> 17 Q. Who is your supervisor?<br/> 18 A. Shawn.<br/> 19 Q. Pardon?<br/> 20 A. Shawn.<br/> 21 Q. Do you know Shawn's last name?<br/> 22 A. No.<br/> 23 Q. What's your present rate of pay?</p>   |



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| <p style="text-align: right;">10</p> <p>1 A. \$10 an hour.</p> <p>2 Q. How many hours do you work a week?</p> <p>3 A. Forty.</p> <p>4 Q. Monday through Friday?</p> <p>5 A. Yes, sometimes Saturdays.</p> <p>6 Q. What's your understanding of what</p> <p>7 your claim is in this lawsuit?</p> <p>8 A. To get what is due my money, to get</p> <p>9 what is due to me.</p> <p>10 Q. Can you expand on that a little bit?</p> <p>11 A. For the hours that I put in.</p> <p>12 Q. I take it from what you're trying to</p> <p>13 tell me that you believe you've worked some hours</p> <p>14 for which you weren't paid; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. And what were you doing during this</p> <p>17 time for which you weren't paid?</p> <p>18 A. Working the debone. I worked like in</p> <p>19 the combos. I work trim table -- not the trim</p> <p>20 table, the -- what they call it -- the other thing,</p> <p>21 the -- I can't think of the name of it now. But I</p> <p>22 do different jobs. So if I'm doing different jobs,</p> <p>23 I should be getting paid for those jobs because I</p> | <p style="text-align: right;">12</p> <p>1 A. No.</p> <p>2 Q. Can you identify for me now the items</p> <p>3 of clothing or equipment that you wear on your job</p> <p>4 in the debone department?</p> <p>5 A. Hair net, smock, apron, sleeves,</p> <p>6 cotton liners, and blue gloves, and black boots.</p> <p>7 Q. So let me see if I have the list.</p> <p>8 Hair net, smock, apron, sleeves -- those are the</p> <p>9 blue plastic sleeves?</p> <p>10 A. Yes.</p> <p>11 Q. Gloves and liners?</p> <p>12 A. Yes.</p> <p>13 Q. And boots?</p> <p>14 A. Yes.</p> <p>15 Q. Anything else?</p> <p>16 A. No.</p> <p>17 Q. Which of these items do you believe</p> <p>18 you are required to wear?</p> <p>19 A. All of them.</p> <p>20 Q. Does everybody in the debone</p> <p>21 department wear the identical same things you wear?</p> <p>22 A. Yes.</p> <p>23 Q. All the time?</p> |
| <p style="text-align: right;">11</p> <p>1 was only assigned to one.</p> <p>2 Q. You have a claim for doing these</p> <p>3 other jobs, is that what you're telling me?</p> <p>4 A. No, for what I worked for. That was</p> <p>5 my thing is what I worked for.</p> <p>6 Q. I'm trying to get a grasp on what</p> <p>7 work you did which you believe you weren't paid</p> <p>8 for. Can you explain that to me?</p> <p>9 A. No.</p> <p>10 Q. How did you hear about the lawsuit?</p> <p>11 A. I got a letter in the mail.</p> <p>12 Q. From whom?</p> <p>13 A. The Cochran Law Firm.</p> <p>14 Q. Did you talk about the lawsuit with</p> <p>15 anyone besides the lawyers?</p> <p>16 A. No.</p> <p>17 Q. Are you a member of the Union?</p> <p>18 A. No.</p> <p>19 Q. Did you review any papers or</p> <p>20 documents in preparation for coming here today?</p> <p>21 A. No.</p> <p>22 Q. Did you speak with anybody about your</p> <p>23 deposition besides your lawyers?</p>   | <p style="text-align: right;">13</p> <p>1 A. Yes.</p> <p>2 Q. Am I correct that each of these items</p> <p>3 that you identified are issued to you by the</p> <p>4 company?</p> <p>5 A. Yes.</p> <p>6 Q. Which of these items do you get on a</p> <p>7 daily basis?</p> <p>8 A. Cotton liners, sleeves, blue gloves,</p> <p>9 hair nets.</p> <p>10 Q. What about a smock?</p> <p>11 A. And a smock.</p> <p>12 Q. When do you put these items on?</p> <p>13 A. Inside debone.</p> <p>14 Q. That's where. When do you put them</p> <p>15 on?</p> <p>16 A. Before you go on the floor.</p> <p>17 Q. You mean before you go to your</p> <p>18 workstation?</p> <p>19 A. Yes.</p> <p>20 Q. When you put them on, am I correct</p> <p>21 that you put them on when you are on the production</p> <p>22 floor?</p> <p>23 A. Right.</p>  |

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| <p style="text-align: right;">14</p> <p>1 Q. And you are supposed to be on your</p> <p>2 line, ready to go at 7:30, correct?</p> <p>3 A. Yes.</p> <p>4 Q. What time do you enter the production</p> <p>5 floor in order to put these items on?</p> <p>6 A. 7:30.</p> <p>7 Q. How long does it take you to put them</p> <p>8 on?</p> <p>9 A. About eight minutes.</p> <p>10 Q. So you're not going to the production</p> <p>11 floor until 7:30, and then you take eight minutes</p> <p>12 to put them on?</p> <p>13 A. Yes.</p> <p>14 Q. And you're still there at the line</p> <p>15 when the birds start coming through?</p> <p>16 A. Yes. Sometimes they are a little</p> <p>17 late, but you have to be on the line.</p> <p>18 Q. Does your job require you to use a</p> <p>19 knife or scissors?</p> <p>20 A. No.</p> <p>21 Q. Do you use any other tools or</p> <p>22 equipment?</p> <p>23 A. No.</p> | <p style="text-align: right;">16</p> <p>1 bone checker at the end. But as far as the line,</p> <p>2 I'm at the very end. There's a bone checker after</p> <p>3 me.</p> <p>4 Q. If when you start at 7:30, when you</p> <p>5 start at 7:30, when is the time of your first</p> <p>6 break?</p> <p>7 A. 10:15.</p> <p>8 Q. Do you rotate on that line during the</p> <p>9 day?</p> <p>10 A. No.</p> <p>11 Q. So you're one of the last persons to</p> <p>12 leave the line to go to break?</p> <p>13 A. Yes.</p> <p>14 Q. And what do you have to do to go on</p> <p>15 break, what do you have to take off?</p> <p>16 A. Smock, apron, sleeves, blue gloves,</p> <p>17 cotton liners.</p> <p>18 Q. Do you have to wash them before you</p> <p>19 take them off?</p> <p>20 A. Yes.</p> <p>21 Q. When you first put them on when you</p> <p>22 entered at 7:30, do you wash them?</p> <p>23 A. Yes.</p>  |
| <p style="text-align: right;">15</p> <p>1 Q. How many breaks do you get during</p> <p>2 your shift?</p> <p>3 A. Two.</p> <p>4 Q. And how long are they?</p> <p>5 A. Well, I really don't have a clock, so</p> <p>6 I will say about 20 minutes.</p> <p>7 Q. Where do you take your breaks?</p> <p>8 A. In the break area.</p> <p>9 Q. The debone break room?</p> <p>10 A. Yes.</p> <p>11 Q. Are your breaks paid?</p> <p>12 A. No.</p> <p>13 Q. How do you know when it's time for</p> <p>14 you to take your break, your first break?</p> <p>15 A. I see the line going down.</p> <p>16 Q. And you can leave whenever you see</p> <p>17 them leaving?</p> <p>18 A. No, because I have to wait for the</p> <p>19 last piece of meat to come past me.</p> <p>20 Q. You're at the end of the line?</p> <p>21 A. Yes.</p> <p>22 Q. At the very end?</p> <p>23 A. Not at the very end because there's a</p>     | <p style="text-align: right;">17</p> <p>1 Q. How long does it take you to wash</p> <p>2 those items and take them off?</p> <p>3 A. About eight minutes.</p> <p>4 Q. When do you know it's time to go back</p> <p>5 to work?</p> <p>6 A. When you see everybody else go in.</p> <p>7 Q. Take me through what you do when you</p> <p>8 go back into the --</p> <p>9 A. When you go in, you go in like a</p> <p>10 little room. You have to walk through the foam</p> <p>11 with your boots on, and you are going to put your</p> <p>12 smock and apron and your PPE back on, and then you</p> <p>13 go to the sink and wash them.</p> <p>14 Q. How long does that take you?</p> <p>15 A. About eight minutes.</p> <p>16 Q. How do you get to the plant each day?</p> <p>17 A. I drive.</p> <p>18 Q. And what time do you usually try and</p> <p>19 get there?</p> <p>20 A. About 6:30.</p> <p>21 Q. An hour before your shift?</p> <p>22 A. Yes.</p> <p>23 Q. Are you required to get there an hour</p> |

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| <p style="text-align: right;">18</p> <p>1 before your shift?</p> <p>2 A. No.</p> <p>3 Q. You just do it?</p> <p>4 A. Just do it.</p> <p>5 Q. Do you have to clear security to get</p> <p>6 into the property?</p> <p>7 A. Yes.</p> <p>8 Q. What do you have to do?</p> <p>9 A. Show a picture ID.</p> <p>10 Q. Do you have a sticker for your car?</p> <p>11 A. Yes. I don't have a sticker, I</p> <p>12 have -- they give you like a little card for your</p> <p>13 window.</p> <p>14 Q. You just show the guy in the guard</p> <p>15 shack your card?</p> <p>16 A. Your picture ID, and they give you</p> <p>17 the card -- write your name down and give you a</p> <p>18 card.</p> <p>19 Q. Have you ever been searched in order</p> <p>20 to get into the plant?</p> <p>21 A. No.</p> <p>22 Q. Have you been searched when you left</p> <p>23 the plant?</p>  | <p style="text-align: right;">20</p> <p>1 A. Yes.</p> <p>2 Q. Can you go to the supply room as</p> <p>3 early as 6:30?</p> <p>4 A. Yes.</p> <p>5 Q. So there is no line at 6:30, is</p> <p>6 there?</p> <p>7 A. No, not at 6:30.</p> <p>8 Q. Once you clock in and go to supply,</p> <p>9 then you just go and sit until 7:30 when you go</p> <p>10 into the production floor?</p> <p>11 A. Yes.</p> <p>12 Q. What do you do at the end of the</p> <p>13 day? Take me through the steps that you take from</p> <p>14 the time you are allowed to leave the production</p> <p>15 line to when you exit the building. What do you</p> <p>16 do?</p> <p>17 A. Get in my car and go home.</p> <p>18 Q. Let's break that down a little bit.</p> <p>19 I take it that you're still towards the tail-end of</p> <p>20 the production line?</p> <p>21 A. Yes.</p> <p>22 Q. So you're one of the last ones to</p> <p>23 leave?</p>   |
| <p style="text-align: right;">19</p> <p>1 A. No.</p> <p>2 Q. Do you have to stop when you leave</p> <p>3 the plant?</p> <p>4 A. To turn the ID back in.</p> <p>5 Q. To your knowledge if you would get a</p> <p>6 sticker for your car, would they just wave you</p> <p>7 through?</p> <p>8 A. Yes.</p> <p>9 Q. Is there some reason why you haven't</p> <p>10 done that?</p> <p>11 A. You don't have to time to go over</p> <p>12 there. You have to go over to HR to get it. You</p> <p>13 have to go to another building.</p> <p>14 Q. And you just don't haven't done it?</p> <p>15 A. No, I just don't have the time. I</p> <p>16 don't have enough time to get over there.</p> <p>17 Q. Once you arrived at the plant at</p> <p>18 6:30, take me through what you do for the next</p> <p>19 hour?</p> <p>20 A. Sit outside and wait until it's time</p> <p>21 to go to work. I clock in and just sit outside.</p> <p>22 Q. Well, you have to go to supply, don't</p> <p>23 you?</p> | <p style="text-align: right;">21</p> <p>1 A. Yes.</p> <p>2 Q. And you go over and you wash down?</p> <p>3 A. I take all my stuff off -- well, I</p> <p>4 don't wash it down in the evening.</p> <p>5 Q. You don't, why not?</p> <p>6 A. Because I am taking it home. I take</p> <p>7 it home to wash it.</p> <p>8 Q. So you just take it off and leave?</p> <p>9 A. Yes.</p> <p>10 Q. How long does that take you?</p> <p>11 A. It takes about five minutes by the</p> <p>12 time I go up the steps.</p> <p>13 Q. And what steps, what do you go up?</p> <p>14 A. Because where I'm working at you have</p> <p>15 to go up steps and go down some steps, and then go</p> <p>16 out.</p> <p>17 Q. How far of a walk is it from your</p> <p>18 workstation until you exit the production floor in</p> <p>19 debone, if you know?</p> <p>20 A. I don't know.</p> <p>21 Q. How far is the walk from the debone</p> <p>22 break room to the debone production floor?</p> <p>23 A. I don't know. I really don't know.</p> |

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| <p style="text-align: right;">22</p> <p>1 Q. It's located right across the hall</p> <p>2 from it, though, isn't it?</p> <p>3 A. Yes.</p> <p>4 Q. It's not very far, is it?</p> <p>5 A. No.</p> <p>6 Q. Have you ever heard the phrase line</p> <p>7 time?</p> <p>8 A. Yes.</p> <p>9 Q. Does it have any meaning to you?</p> <p>10 A. I don't understand what you're</p> <p>11 talking about.</p> <p>12 Q. Okay. What about Master Card?</p> <p>13 A. Yes.</p> <p>14 Q. What does that mean to you?</p> <p>15 A. That's a card that they hit the clock</p> <p>16 before you come out.</p> <p>17 Q. Is it your understanding that you're</p> <p>18 paid on the basis of Master Card time?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any understanding as to</p> <p>21 how that Master Card time works?</p> <p>22 A. Not really, no. All I know you --</p> <p>23 it's still in the production area, and they just</p>   | <p style="text-align: right;">24</p> <p>1 Q. How do you do that?</p> <p>2 A. I add it up.</p> <p>3 Q. Do you keep notes?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have any of those notes?</p> <p>6 A. No.</p> <p>7 Q. What do you do with them?</p> <p>8 A. Scribble down on paper.</p> <p>9 Q. Do you keep it weekly?</p> <p>10 A. No, just sometimes.</p> <p>11 Q. And on those occasions that you keep</p> <p>12 those notes, why do you do it?</p> <p>13 A. Especially if I leave early.</p> <p>14 Q. Pardon?</p> <p>15 A. When I leave early, I like to keep up</p> <p>16 with my own hours.</p> <p>17 Q. You leave early sometimes?</p> <p>18 A. Yes.</p> <p>19 Q. And the company has no problem with</p> <p>20 you leaving early?</p> <p>21 A. No, I'm a diabetic.</p> <p>22 Q. But other than those little notes</p> <p>23 that you just described, you've never kept any sort</p>                  |
| <p style="text-align: right;">23</p> <p>1 hit the Master Card. I have seen it, the Master</p> <p>2 Card. And I know she go in there and swipe it.</p> <p>3 Q. Are you in a position to be able to</p> <p>4 see when she swipes the Master Card?</p> <p>5 A. If I'm in the break room.</p> <p>6 Q. When you say "she", is that your</p> <p>7 supervisor?</p> <p>8 A. No.</p> <p>9 Q. Who swipes the Master Card to end the</p> <p>10 day?</p> <p>11 A. I think she's the assistant</p> <p>12 superintendent.</p> <p>13 Q. And sometimes you are in the break</p> <p>14 room when you see them swipe the Master Card?</p> <p>15 A. We are on line to clock out.</p> <p>16 Q. And that's when you see her swipe the</p> <p>17 Master Card? Have you ever had occasion to</p> <p>18 complain to any of your supervisors or to payroll</p> <p>19 about any errors in your paycheck?</p> <p>20 A. No.</p> <p>21 Q. Do you keep track of the hours you</p> <p>22 work there?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">25</p> <p>1 of diary or notebook with respect to what you've</p> <p>2 done there and the hours you've worked?</p> <p>3 A. No.</p> <p>4 Q. Have you made any calculations with</p> <p>5 respect to what you think you're owed in this</p> <p>6 lawsuit?</p> <p>7 A. No.</p> <p>8 Q. When you work on Saturdays, are you</p> <p>9 paid overtime at time-and-a-half?</p> <p>10 A. Yes.</p> <p>11 Q. Have you ever had any complaints</p> <p>12 about your overtime and how it was computed?</p> <p>13 A. No.</p> <p>14 Q. Have you ever been disciplined for</p> <p>15 any rule infraction?</p> <p>16 A. No.</p> <p>17 MR. FRY: Can we mark this</p> <p>18 Merrill Exhibit 1?</p> <p>19 (WHEREUPON, a document was marked</p> <p>20 as Merrill Exhibit 1 and is</p> <p>21 attached to the original</p> <p>22 transcript.)</p> <p>23 Q. (Mr. Fry) Ms. Merrill, I'm showing</p> |

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| <p style="text-align: right;">26</p> <p>1 you a document which we have marked as Merrill</p> <p>2 Exhibit 1, which is a document that's captioned</p> <p>3 Declaration, and your name is printed in the</p> <p>4 Paragraph No. 1. Would you take a minute and look</p> <p>5 at this for me and let me know when you are</p> <p>6 finished?</p> <p>7 (Plaintiff reviews Merrill</p> <p>8 Exhibit 1.)</p> <p>9 MR. UNDERWOOD: Have you looked</p> <p>10 at it?</p> <p>11 THE DEPONENT: Uh-huh.</p> <p>12 MR. UNDERWOOD: She's ready.</p> <p>13 Q. (Mr. Fry) Ms. Merrill, is that your</p> <p>14 signature on Page 3?</p> <p>15 A. Yes.</p> <p>16 Q. Do you recall signing this document?</p> <p>17 A. No.</p> <p>18 Q. Do you recall ever reading this</p> <p>19 document?</p> <p>20 A. No.</p> <p>21 Q. You didn't prepare it, I gather?</p> <p>22 A. No.</p> <p>23 Q. Do you know who did?</p>           | <p style="text-align: right;">28</p> <p>1 who have refused to join this litigation because of</p> <p>2 fear of retaliation?</p> <p>3 A. No.</p> <p>4 Q. The second sentence in that paragraph</p> <p>5 reads -- to that end, Defendant and its managers</p> <p>6 have attempted to discourage and/or intimidate my</p> <p>7 coworkers from joining this lawsuit by issuing both</p> <p>8 expressed and implied threats involving job</p> <p>9 security, period, closed quote. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Do you have any information about</p> <p>12 that allegation?</p> <p>13 A. No.</p> <p>14 Q. Do you know any of your coworkers who</p> <p>15 have been threatened if they join this lawsuit?</p> <p>16 A. No.</p> <p>17 Q. Do you know of any managers at Equity</p> <p>18 who have attempted to discourage or intimidate any</p> <p>19 of your coworkers with respect to this lawsuit?</p> <p>20 A. No.</p> <p>21 Q. Have you been intimidated or</p> <p>22 discouraged in any way by anybody at Equity to join</p> <p>23 this lawsuit?</p> |
| <p style="text-align: right;">27</p> <p>1 A. No.</p> <p>2 Q. The only questions I have relate to</p> <p>3 Paragraph 10. Do you have it in front of you?</p> <p>4 A. Yes.</p> <p>5 Q. I am going to read the second full</p> <p>6 sentence. Quote, numerous employees have expressed</p> <p>7 their desire to join this litigation, but have not</p> <p>8 done so to date because of fear of retaliation by</p> <p>9 Defendant and its managers, closed quote. Do you</p> <p>10 see that?</p> <p>11 A. Paragraph 10?</p> <p>12 Q. Yes, ma'am.</p> <p>13 MR. UNDERWOOD: That's it right</p> <p>14 there.</p> <p>15 A. Okay.</p> <p>16 Q. (Mr. Fry) Do you see the sentence?</p> <p>17 A. Uh-huh.</p> <p>18 Q. You have to say yes or no?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any information about</p> <p>21 that allegation?</p> <p>22 A. No.</p> <p>23 Q. Do you know of any -- any employees</p> | <p style="text-align: right;">29</p> <p>1 A. No.</p> <p>2 Q. Do you know where this document came</p> <p>3 from?</p> <p>4 A. No.</p> <p>5 MR. FRY: Thank you.</p> <p>6 MR. UNDERWOOD: Are you through</p> <p>7 with her?</p> <p>8 MR. FRY: Yes.</p> <p>9</p> <p>10 EXAMINATION BY MR. UNDERWOOD:</p> <p>11 Q. Ms. Merrill, your start time is 7:30,</p> <p>12 right, you have to be on the line at 7:30?</p> <p>13 A. Yes.</p> <p>14 Q. The birds are rolling at 7:30, right?</p> <p>15 A. Yes.</p> <p>16 Q. And if you've not on the line at</p> <p>17 7:30, you are going to get written up, aren't you?</p> <p>18 A. Yes.</p> <p>19 Q. So when you testified a while ago</p> <p>20 that you were putting on your PPE at 7:30, that's</p> <p>21 not accurate, is it? You are actually putting it</p> <p>22 on a little bit before 7:30?</p> <p>23 A. Before 7:30.</p>  |

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| <p style="text-align: right;">30</p> <p>1 Q. And you don't get paid until you walk</p> <p>2 on that line at 7:30; is that right?</p> <p>3 A. Right.</p> <p>4 Q. So the time that you're putting on</p> <p>5 that PPE you're not getting paid for?</p> <p>6 A. No.</p> <p>7 Q. And that's what you're here claiming</p> <p>8 in this lawsuit, isn't it?</p> <p>9 A. Yes.</p> <p>10 MR. FRY: Objection.</p> <p>11 Q. (Mr. Underwood) Let me rephrase that</p> <p>12 then. Are you claiming in this lawsuit the time</p> <p>13 that we just talked about that you didn't get paid</p> <p>14 for putting on your PPE?</p> <p>15 A. Yes.</p> <p>16 MR. UNDERWOOD: That's all I</p> <p>17 have.</p> <p>18</p> <p>19 EXAMINATION BY MR. FRY:</p> <p>20 Q. Ms. Merrill, now that your lawyer has</p> <p>21 told you what your claim is --</p> <p>22 MR. UNDERWOOD: Object to the</p> <p>23 form. Now he's making obtuse statements. Let's go</p>   | <p style="text-align: right;">32</p> <p>1 A. Yes.</p> <p>2 Q. When did you come to that realization</p> <p>3 that that is what your claim is?</p> <p>4 A. It would still be the realization</p> <p>5 that I don't get paid -- I want to get paid for my</p> <p>6 time for putting on and taking off.</p> <p>7 Q. In response to your lawyer's</p> <p>8 question, again, you said now that -- you enter the</p> <p>9 production floor a little bit before 7:30 to put on</p> <p>10 your PPE?</p> <p>11 A. Yes.</p> <p>12 Q. How many minutes before do you go on</p> <p>13 the floor?</p> <p>14 A. You have to go -- I go on the floor</p> <p>15 at least about five minutes before I put on the</p> <p>16 PPE.</p> <p>17 Q. So it takes you about five minutes to</p> <p>18 put it on; is that correct?</p> <p>19 A. To get to where you have to put it on</p> <p>20 at.</p> <p>21 Q. Let me --</p> <p>22 A. You have to walk to the hangers.</p> <p>23 Q. You're in the debone break room.</p> |
| <p style="text-align: right;">31</p> <p>1 ahead.</p> <p>2 MR. FRY: Just let me finish my</p> <p>3 question. Then you can object.</p> <p>4 MR. UNDERWOOD: When you ask a</p> <p>5 question, I will let you finish it. When you want</p> <p>6 to make a statement, I will make my objection.</p> <p>7 Q. (Mr. Fry) Ms. Merrill, now that your</p> <p>8 lawyer has told you what the claim is --</p> <p>9 MR. UNDERWOOD: Object to the</p> <p>10 form of the question.</p> <p>11 Q. (Mr. Fry) -- let me ask you, when</p> <p>12 did you realize that that was what your claim is?</p> <p>13 A. I don't understand your statement.</p> <p>14 Q. When did you realize, or when you did</p> <p>15 you come to the knowledge, that your claim in this</p> <p>16 case was for the time that you took to put on and</p> <p>17 take off your PPE?</p> <p>18 A. I still don't understand what you are</p> <p>19 saying.</p> <p>20 Q. You just answered your lawyer's</p> <p>21 question that your claim here involves a claim for</p> <p>22 the time you spent putting on and taking off your</p> <p>23 PPE, correct?</p> | <p style="text-align: right;">33</p> <p>1 Okay?</p> <p>2 A. Uh-huh.</p> <p>3 Q. What time do you enter the debone</p> <p>4 production floor in order to get ready for your</p> <p>5 7:30 shift?</p> <p>6 A. About five minutes before 7:30 I have</p> <p>7 to go in.</p> <p>8 MR. FRY: Thank you.</p> <p>9 MR. UNDERWOOD: Is that it?</p> <p>10 MR. FRY: Yes.</p> <p>11 MR. UNDERWOOD: You are good to</p> <p>12 go.</p> <p>13 3:50 p.m.</p> <p>14 *****</p> <p>15 FURTHER DEPONENT SAITH NOT</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |

## MERRILL LEGAL SOLUTIONS

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34

## 1 CERTIFICATE

2  
3 STATE OF ALABAMA  
4 AT LARGE  
56 I hereby certify that the above  
7 and foregoing deposition was taken down by me in  
8 stenotype and the questions and answers thereto  
9 were transcribed by means of computer-aided  
10 transcription and that the foregoing represents a  
11 true and correct transcript of the testimony given  
12 by said witness upon said deposition.13 I further certify that I am  
14 neither of counsel nor of kin to the parties to the  
15 action, nor am I in anywise interested in the  
16 result of said cause.  
17  
18  
19  
20  
2122 Victoria M. Castillo, Certified Court Reporter  
ACCR# 17, Expires 9/30/2008  
23 Commissioner and Notary Public



**TAB 39**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

CASE NUMBER: 2:06-CV-01081-MEF-DRB

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
GREG MILLS

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|---|--|
| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of GREG MILLS may be</p> <p>6 taken before Cynthia M. Noakes, Court Reporter,</p> <p>7 at the Law Offices of WILLIAMS, POTTHOFF,</p> <p>8 WILLIAMS &amp; SMITH, 125 South Orange Avenue,</p> <p>9 Eufaula, Alabama 36027, on the 11th day of June,</p> <p>10 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is not waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. WIGGINS               12-227</p> <p>4</p> <p>5</p> <p>6           EXHIBITS:</p> <p>7   PLAINTIFFS'               PAGE NUMBER:</p> <p>8   Plaintiffs' Exhibit No. 1       47</p> <p>9   Plaintiffs' Exhibit No. 2       48</p> <p>10   Plaintiffs' Exhibit No. 3       22</p> <p>11   Plaintiffs' Exhibit No. 4       50</p> <p>12   Plaintiffs' Exhibit No. 5       55</p> <p>13   Plaintiffs' Exhibit No. 6       61</p> <p>14   Plaintiffs' Exhibit No. 7       67</p> <p>15   Plaintiffs' Exhibit No. 8       69</p> <p>16   Plaintiffs' Exhibit No. 9       84</p> <p>17   Plaintiffs' Exhibit No. 10       84</p> <p>18   Plaintiffs' Exhibit No. 11       114</p> <p>19   Plaintiffs' Exhibit No. 12       77</p> <p>20   Plaintiffs' Exhibit No. 13       116</p> <p>21   Plaintiffs' Exhibit No. 14       116</p> <p>22   Plaintiffs' Exhibit No. 15       118</p> <p>23   Plaintiffs' Exhibit No. 16       10</p> |
| <p style="text-align: right;">3</p> <p>1 the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           INDEX (continued)</p> <p>2</p> <p>3   Plaintiffs' Exhibit No. 17       11</p> <p>4   Plaintiffs' Exhibit No. 18       11</p> <p>5   Plaintiffs' Exhibit No. 19       11</p> <p>6   Plaintiffs' Exhibit No. 20       11</p> <p>7   Plaintiffs' Exhibit No. 21       17</p> <p>8   Plaintiffs' Exhibit No. 22       30</p> <p>9   (All exhibits were retained</p> <p>10 by Plaintiffs' attorneys)</p> <p>11   Colloquy                   227-232</p> <p>12</p> <p>13   Reporter's Certificate           233</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 *****</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |

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| 1 APPEARANCES  | 1 a.m., GREG MILLS, witness in the above cause, for  |
| 2  | 2 oral examination, whereupon the following          |
| 3 ON BEHALF OF THE PLAINTIFFS:                       | 3 proceedings were had:                              |
| 4 MR. ROBERT L. WIGGINS, JR.                         | 4  |
| 5 MS. CANDIS A. MCGOWAN                              | 5 GREG MILLS,  |
| 6 MR. JACOB A. KISER                                 | 6 being first duly sworn, was examined and           |
| 7 WIGGINS, CHILDS,                                   | 7 testified as follows:                              |
| 8 QUINN & PANTAZIS, LLC                              | 8  |
| 9 ATTORNEYS AT LAW                                   | 9 THE COURT REPORTER: Usual                          |
| 10 The Kress Building                                | 10 stipulations?                                     |
| 11 301 19th Street North                             | 11 MR. WIGGINS: Yes.                                 |
| 12 Birmingham, Alabama 35203                         | 12 MR. ROSENTHAL: Yes, except for reading            |
| 13 (205) 314-0500                                    | 13 and signing.                                      |
| 14   | 14 MR. WIGGINS: All right.                           |
| 15 MR. ROBERT J. CAMP                                | 15 MR. ROSENTHAL: Before we get started              |
| 16 THE COCHRAN FIRM                                  | 16 with the deposition, I just wanted to inform      |
| 17 ATTORNEYS AT LAW                                  | 17 Plaintiffs' counsel of the documents which we are |
| 18 505 North 20th Street                             | 18 producing today at their request during a         |
| 19 Suite 825   | 19 conversation on Friday of last week.              |
| 20 Birmingham, Alabama 35203                         | 20 First would be various updated                    |
| 21   | 21 organizational charts, some of which -- and       |
| 22 *****   | 22 principally the fresh plant organizational chart  |
| 23   | 23 -- was revised to be updated as of April 3, 2008. |
| 7  | 9  |
| 1 APPEARANCES (continued)                            | 1 We've also produced the most current Good          |
| 2  | 2 Manufacturing Practices, which was revised as of   |
| 3 ON BEHALF OF THE DEFENDANT:                        | 3 August 18 -- excuse me -- August 21, 2007. And     |
| 4 MR. HOWARD A. ROSENTHAL                            | 4 that would be 13 pages.                            |
| 5 MR. MALCOLM S. GOULD                               | 5 We're producing the current Employee               |
| 6 PELINO & LENTZ                                     | 6 Orientation Manual which updates the version which |
| 7 ATTORNEYS AT LAW                                   | 7 we had previously produced.                        |
| 8 One Liberty Place                                  | 8 We are producing redacted copies of the 2004       |
| 9 1650 Market Street                                 | 9 contract proposals. The top proposal in this       |
| 10 Thirty-Second Floor                               | 10 packet are the proposals which were given by the  |
| 11 Philadelphia, Pennsylvania 19103                  | 11 union to the company; and then there were various |
| 12 (215) 665-1540                                    | 12 responses by the company to the union, which were |
| 13   | 13 revisions 1, 2, 3 and 4. They redact everything   |
| 14 *****   | 14 other than proposals relating to work clothing,   |
| 15   | 15 supplies, and wages. These were the written       |
| 16 I, CYNTHIA M. NOAKES, a Certified                 | 16 documents which were produced during the 2004     |
| 17 Court Reporter of Eufaula, Alabama, acting as     | 17 contract negotiations. They don't include,        |
| 18 Commissioner, certify that on this date, as       | 18 obviously, any proposals which were made across   |
| 19 provided by the Alabama Rules of Civil Procedure  | 19 the table and not in writing.                     |
| 20 and the foregoing stipulation of counsel, there   | 20 We've also produced, likewise, the 2008           |
| 21 came before me at the Law Offices of WILLIAMS,    | 21 union contract proposals, redacted, to show those |
| 22 POTTHOFF, WILLIAMS & SMITH, 125 South Orange      | 22 which relate to supplies, work clothing, and      |
| 23 Avenue, Eufaula, Alabama 36027, beginning at 9:10 | 23 wages. And then the company's various responses   |

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| 10  | 12   |
| 1 to them during the course of the negotiations,      | 1 MR. WIGGINS: Now, I've got Mr. Mill's              |
| 2 which were revisions 1, 2, 3, 4, and 5. And these   | 2 affidavit, so I'm not going to go into his         |
| 3 copies are for Plaintiffs.                          | 3 background. It's all clear in his affidavit, I     |
| 4 MR. WIGGINS: Okay.                                  | 4 think.   |
| 5 MS. MCGOWAN: On the union                           | 5  |
| 6 negotiations, the proposals, you said they don't    | 6 EXAMINATION  |
| 7 include proposals made across the table? Were       | 7 BY MR. WIGGINS:                                    |
| 8 they noted on there?                                | 8 Q. Let me show you the orientation manual that     |
| 9 MR. ROSENTHAL: No. Those would be                   | 9 was produced previously, Bates numbers E 40 to E   |
| 10 just proposals which were made orally across the   | 10 160; and I'll show you what you produced this     |
| 11 table. There's no written document that reflects   | 11 morning, Exhibit 18.                              |
| 12 them.  | 12 Are you able to tell us what's changed in         |
| 13 MR. WIGGINS: I'm going to mark all                 | 13 those documents?                                  |
| 14 these that he just gave us. All right. I'm going   | 14 A. No, sir.                                       |
| 15 to mark the updated organizational charts as of    | 15 Q. Who would be able to tell us that?             |
| 16 April 3, 2008, that were just produced, as Exhibit | 16 A. HR department.                                 |
| 17 16.  | 17 Q. Who in the HR department?                      |
| 18 (Plaintiffs' Exhibit No. 16 was                    | 18 A. HR department. There's a lot of information    |
| 19 marked for identification and a                    | 19 in these manuals. QA, HR. So the QA department    |
| 20 copy of the same is attached                       | 20 supervisor or a manager, or the HR director would |
| 21 hereto.)   | 21 be the one to tell you the changes in these       |
| 22 MR. WIGGINS: The updated or revised                | 22 manuals.  |
| 23 Good Manufacturing Practices policy revision dated | 23 Q. And what are their names?                      |
| 11  | 13   |
| 1 August 18, 2007, is being marked as Exhibit 17.     | 1 A. Kathy Gilmore in HR, or Butch White in QA.      |
| 2 (Plaintiffs' Exhibit No. 17 was                     | 2 Q. And what is Ms. Gilmore's title?                |
| 3 marked for identification and a                     | 3 A. HR manager.                                     |
| 4 copy of the same is attached                        | 4 Q. And what is Mr. Whiting's (sic) title?          |
| 5 hereto.)  | 5 A. QA manager.                                     |
| 6 MR. WIGGINS: The current Orientation                | 6 MR. ROSENTHAL: Is it Wade or Whiting?              |
| 7 Manual is being marked as Exhibit 18.               | 7 THE WITNESS: White.                                |
| 8 (Plaintiffs' Exhibit No. 18 was                     | 8 Q. White. I'm sorry. And he's QA manager, not      |
| 9 marked for identification and a                     | 9 supervisor, correct?                               |
| 10 copy of the same is attached                       | 10 A. QA manager.                                    |
| 11 hereto.)   | 11 Q. Okay. Anyone else involved in revising the     |
| 12 MR. WIGGINS: The 2004 contract                     | 12 Employee Orientation Manual?                      |
| 13 proposals and response documents are Exhibit 19.   | 13 A. Not to my knowledge.                           |
| 14 (Plaintiffs' Exhibit No. 19 was                    | 14 Q. The manual that you've produced is a bound     |
| 15 marked for identification and a                    | 15 copy in pamphlet form, correct?                   |
| 16 copy of the same is attached                       | 16 A. Yes.   |
| 17 hereto.)   | 17 Q. Is that the way it's given to the employees?   |
| 18 MR. WIGGINS: And the 2008 contract                 | 18 A. Yes.   |
| 19 proposals and responses will be Exhibit 20.        | 19 Q. And at what point is this employee manual,     |
| 20 (Plaintiffs' Exhibit No. 20 was                    | 20 Exhibit 18, provided to the employees?            |
| 21 marked for identification and a                    | 21 A. To the best of my knowledge, when they're      |
| 22 copy of the same is attached                       | 22 hired.  |
| 23 hereto.)   | 23 Q. What role do you play in employee              |

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| <p style="text-align: right;">14</p> <p>1 orientation or the use of the Employee Orientation<br/>2 Manual?<br/>3 A. None.<br/>4 Q. Who is most knowledgeable about the employee<br/>5 orientation and the use of the manual?<br/>6 A. Dante Rogers.<br/>7 Q. What is Dante Roger's job title?<br/>8 A. He's a QA manager, I do believe, and he's<br/>9 over new hire orientation.<br/>10 Q. And is Ms. Gilmore, Mr. Rogers in the QA<br/>11 shown on Exhibit 16?<br/>12 A. Yes.<br/>13 Q. All right. What page? This is the page<br/>14 that has Jim Bice, Complex Human Resource Manager<br/>15 at the top?<br/>16 A. Yes.<br/>17 Q. And it shows Dante Rogers as the human<br/>18 resource manager, correct?<br/>19 A. Yes.<br/>20 Q. Now, you're calling him a QA manager. Is<br/>21 that the same thing?<br/>22 A. No. Dante Rogers, HR manager; Butch White,<br/>23 QA manager.</p> | <p style="text-align: right;">16</p> <p>1 MR. GOULD: It's the fourth page<br/>2 actually, I believe.<br/>3 Q. All right. I see you now on the fourth<br/>4 page. And is that a complete description of<br/>5 everyone that reports to you?<br/>6 A. Yes.<br/>7 Q. And where is Mr. Esslinger located?<br/>8 MR. ROSENTHAL: On the organizational<br/>9 charts?<br/>10 MR. WIGGINS: No. Physically.<br/>11 Q. Where is his office?<br/>12 A. At the Eufaula complex.<br/>13 Q. Okay. So Mr. White, as complex QA director<br/>14 does not report to you?<br/>15 A. No, sir.<br/>16 Q. Is that right?<br/>17 A. Yes.<br/>18 Q. And the human resource director, Jim Bice,<br/>19 does not report to you?<br/>20 A. Correct.<br/>21 Q. And therefore Kathy Gilmore does not report<br/>22 to you?<br/>23 A. Correct.</p>  |
| <p style="text-align: right;">15</p> <p>1 Q. Oh, I wrote it down wrong. I misunderstood<br/>2 you.<br/>3 Now, I had asked you about Mr. White. I'm<br/>4 not seeing him on here.<br/>5 A. He's on QA.<br/>6 Q. Okay.<br/>7 A. Complex QA director is his title.<br/>8 Q. Now, what is the complex?<br/>9 A. The complex is both facilities, the fresh<br/>10 and the further processing plants.<br/>11 Q. And you're the head of both plants?<br/>12 A. I'm the operation manager.<br/>13 Q. Are you shown in Exhibit 16?<br/>14 A. Yes.<br/>15 Q. Where are you at?<br/>16 A. On the front page -- on the second page.<br/>17 You see Tim Esslinger, the general manager?<br/>18 Q. Yes.<br/>19 A. I'm under him as operations manager.<br/>20 Q. All right. And is anyone under you?<br/>21 A. Yes.<br/>22 Q. Who is under you?<br/>23 A. It's on the second page.</p>                 | <p style="text-align: right;">17</p> <p>1 Q. And Dante Rogers does not report to you?<br/>2 A. Correct.<br/>3 Q. So does anyone that reports to you have<br/>4 anything to do with these orientation manuals?<br/>5 A. No, not as I'm aware of.<br/>6 Q. Now, you were designated for various topics<br/>7 here today. Are you aware of that?<br/>8 A. No.<br/>9 Q. Okay. I'm going to show you the next<br/>10 exhibit, 21.<br/>11 (Plaintiffs' Exhibit No. 21 was<br/>12 marked for identification and a<br/>13 copy of the same is attached<br/>14 hereto.)<br/>15 Q. This is the company's designation of<br/>16 witnesses under a rule called Rule 30(b)(6), which<br/>17 means that you have been designated to speak for<br/>18 and to bind the corporation.<br/>19 Have you seen this list of topics that you<br/>20 have been designated for?<br/>21 MR. ROSENTHAL: I'm going to object to<br/>22 the legal conclusion with respect to the impact of<br/>23 a designation. But you can answer the question.</p> |

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|---|---|
| <p style="text-align: right;">18</p> <p>1 A. No, I have not seen these.</p> <p>2 Q. Okay. Well, let's go over that real quick,</p> <p>3 please. Look at topic No. 1. "The organizational</p> <p>4 structure of Equity, including specifically any</p> <p>5 mechanisms for oversight of individual plants by</p> <p>6 corporate or regional managers."</p> <p>7 You've been designated as the person</p> <p>8 knowledgeable on that subject. Do you agree that</p> <p>9 you are properly designated and have knowledge on</p> <p>10 that subject?</p> <p>11 MR. ROSENTHAL: Objection to the</p> <p>12 request for a legal conclusion whether he was</p> <p>13 properly designated. To the extent you have</p> <p>14 knowledge of the subject, you can answer.</p> <p>15 A. I have knowledge of some of it, but not all</p> <p>16 of it.</p> <p>17 Q. Two other people were designated for that</p> <p>18 topic too.</p> <p>19 Now let's look at topic No. 2 on Exhibit 21.</p> <p>20 You were designated for the training portion of</p> <p>21 Equity's policies and practices regarding the</p> <p>22 maintenance of records of hours worked and wages</p> <p>23 paid, and the training to inform employees and</p> | <p style="text-align: right;">20</p> <p>1 A. Maintenance of records? Explain what you're</p> <p>2 asking now.</p> <p>3 Q. Look at No. 2 there. Read No. 2 to yourself</p> <p>4 to make sure you're on the same page with me.</p> <p>5 A. (Witness complies.)</p> <p>6 Q. Okay.</p> <p>7 A. They do time sheets and, you know, turn in</p> <p>8 weekly daily time sheets. Supervisors and</p> <p>9 superintendents do time sheets and turn those in</p> <p>10 to accounting.</p> <p>11 Q. Okay.</p> <p>12 A. The payroll department.</p> <p>13 Q. All right. Just take a minute and read each</p> <p>14 of the topics in Exhibit 21 that you've been</p> <p>15 designated for, and tell me if you believe that</p> <p>16 you do not have knowledge on any of those topics.</p> <p>17 (The witness examines the</p> <p>18 document.)</p> <p>19 A. I mean, on some of these I've got general</p> <p>20 knowledge of, but not in detail on all these</p> <p>21 items. You know, there's a lot of stuff here.</p> <p>22 Some of it I know something about, but not all;</p> <p>23 because I've got people under me that's</p>  |
| <p style="text-align: right;">19</p> <p>1 supervisors of these policies, and measures that</p> <p>2 were taken to ensure compliance with these</p> <p>3 policies.</p> <p>4 What role do you play in that area of</p> <p>5 training on that topic?</p> <p>6 A. None. I have people under me that do the</p> <p>7 training; I don't do the training.</p> <p>8 Q. Okay. Who are they?</p> <p>9 A. There's different levels from supervisors</p> <p>10 all the way up to shift managers, plant managers.</p> <p>11 Q. Okay. And take the organizational chart,</p> <p>12 Exhibit 16, and tell me those persons.</p> <p>13 A. It could be any of these sheets.</p> <p>14 Q. The entire exhibit?</p> <p>15 A. According to what department and where they</p> <p>16 work and what they're training on.</p> <p>17 Q. Okay. Which employees -- are you saying all</p> <p>18 these employees shown here do training or are you</p> <p>19 saying particular ones?</p> <p>20 A. All of them do training.</p> <p>21 Q. All right. But do they do training on</p> <p>22 maintenance of records of hours worked and wages</p> <p>23 paid?</p>   | <p style="text-align: right;">21</p> <p>1 responsible for this.</p> <p>2 Q. Okay. We'll get into that as we go along.</p> <p>3 But you don't see any topics in Exhibit 21 that</p> <p>4 you disagree with you being designated to speak</p> <p>5 on, do you?</p> <p>6 A. I mean, when you're talking about the</p> <p>7 plaintiffs on their required wear, I don't even</p> <p>8 know the plaintiffs; and I don't know 1700</p> <p>9 employees by name and where they work, so I don't</p> <p>10 know what they're required to wear in the position</p> <p>11 they're in. You know what I'm saying?</p> <p>12 Q. Uh-huh.</p> <p>13 A. So I don't have knowledge of that. I know</p> <p>14 what positions, what is required to be worn in</p> <p>15 that position, according to what they're doing.</p> <p>16 But I don't know by plaintiff's name.</p> <p>17 Q. All right. Now, while you were looking at</p> <p>18 that, I was looking at Exhibit 17, which is what's</p> <p>19 called the revised GMP's; and it's considerably</p> <p>20 more involved than the one we had before today.</p> <p>21 Exhibit 17, is it in force as of today?</p> <p>22 MR. ROSENTHAL: I'm going to object to</p> <p>23 the extent to the premise of the question that</p> |



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| <p style="text-align: right;">22</p> <p>1 it's considerably more involved than the prior</p> <p>2 Good Manufacturing Practices which were supplied,</p> <p>3 which were multiple versions of the GMP's for each</p> <p>4 of the plants. But you can answer the question.</p> <p>5 A. Would you repeat the question?</p> <p>6 MR. ROSENTHAL: Is it in force today?</p> <p>7 Q. Yeah.</p> <p>8 A. Yes.</p> <p>9 Q. And has this Exhibit 17 been in force since</p> <p>10 August 18, 2007?</p> <p>11 A. Yes.</p> <p>12 Q. And it doesn't bear your signature, does it?</p> <p>13 A. No.</p> <p>14 Q. All right. But it bear's your boss's</p> <p>15 signature, correct, or a place for the signature,</p> <p>16 correct?</p> <p>17 A. I don't see that.</p> <p>18 Q. Page 2 of my copy of Exhibit 17 says, at the</p> <p>19 top, "Robin Stevens, Fresh Plant Manager." He</p> <p>20 reports to you though, doesn't he?</p> <p>21 A. Correct.</p> <p>22 Q. All right. I brought the old exhibits that</p> <p>23 have been previously produced. Look at Exhibit 3.</p> | <p style="text-align: right;">24</p> <p>1 A. Charoen Pokphand.</p> <p>2 Q. And how long were you with them?</p> <p>3 A. Started September 1999.</p> <p>4 Q. And what were your jobs for CP?</p> <p>5 A. First job, I was maintenance manager; then I</p> <p>6 was promoted in 2000 to plant manager; then I was</p> <p>7 plant manager when Equity Group bought Charoen</p> <p>8 Pokphand.</p> <p>9 Q. And when did that take place?</p> <p>10 A. When it was purchased?</p> <p>11 Q. Correct.</p> <p>12 A. I believe March of '04.</p> <p>13 Q. And when did you become complex manager?</p> <p>14 A. Operations manager.</p> <p>15 Q. Complex operations manager I think is your</p> <p>16 title.</p> <p>17 A. I don't remember the date. It was sometime</p> <p>18 October or November of '04.</p> <p>19 Q. Who did you replace?</p> <p>20 A. No one.</p> <p>21 Q. From 2000 to 2004 you said you were plant</p> <p>22 manager. Of which plant?</p> <p>23 A. Fresh plant.</p>   |
| <p style="text-align: right;">23</p> <p>1 A. (Witness complies.)</p> <p>2 Q. Is this the version of the Good</p> <p>3 Manufacturing Practices that were in force and</p> <p>4 effect from October 2, 2006, to August 18, 2007?</p> <p>5 A. Yes. To the best of my knowledge, yes.</p> <p>6 Q. And look at page 2. That's your signature,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. You signed it October 2, 2006, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know why, when it was revised in</p> <p>12 August of 2007, it didn't call for your signature?</p> <p>13 A. No.</p> <p>14 Q. Okay. Look at page 3 of Exhibit 17.</p> <p>15 A. (Witness complies.)</p> <p>16 Q. Is that an accurate and complete list of the</p> <p>17 revisions, dates, and type of revisions?</p> <p>18 A. To the best of my knowledge.</p> <p>19 Q. How long have you been with Equity Group?</p> <p>20 A. Since March of '04.</p> <p>21 Q. And what was your job history prior to that?</p> <p>22 A. I was with CP.</p> <p>23 Q. And what does CP stand for?</p>          | <p style="text-align: right;">25</p> <p>1 Q. To whom did you report?</p> <p>2 A. Lee Allen.</p> <p>3 Q. And what was his job?</p> <p>4 A. Complex manager.</p> <p>5 Q. So they created a new position called</p> <p>6 complex operations manager sometime in late 2004?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know why?</p> <p>9 A. No.</p> <p>10 Q. Now, looking at Exhibit 3 again, which you</p> <p>11 said was the predecessor to Exhibit 17, it has 19</p> <p>12 numbered paragraphs, correct?</p> <p>13 A. What are you talking about 19 paragraphs?</p> <p>14 Q. I'm sorry. 29 paragraphs. You've got</p> <p>15 Exhibit 3 in front of you, correct?</p> <p>16 A. Uh-huh.</p> <p>17 Q. All right. It has six pages with 29</p> <p>18 numbered paragraphs, correct?</p> <p>19 A. Yes.</p> <p>20 Q. All right. Now, looking at the revised</p> <p>21 2007, Exhibit 17, it has 41 numbered paragraphs,</p> <p>22 then a series of bullet point paragraphs, then it</p> <p>23 looks like it picks up with some more numbered</p> |

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| <p style="text-align: right;">26</p> <p>1 paragraphs; so I really don't know how many in<br/>2 total.<br/>3 But you would agree that this new policy has<br/>4 many, many more paragraphs than the predecessor<br/>5 policy, correct?<br/>6 MR. ROSENTHAL: Objection to the extent<br/>7 you're referring to P3 as the predecessor. This<br/>8 P17 is a combination of GMP's for all the entire<br/>9 complex plants. This is limited to the fresh<br/>10 plant only. It is not correct to say that this is<br/>11 the predecessor to this; this is one part of it.<br/>12 MR. WIGGINS: All right. But I think<br/>13 you're going to have to let the witness be the<br/>14 witness.<br/>15 MR. ROSENTHAL: Well, I'm objecting to<br/>16 your question.<br/>17 MR. WIGGINS: Well, he had already<br/>18 answered that question.<br/>19 MR. ROSENTHAL: No.<br/>20 MR. WIGGINS: Well, the record will<br/>21 show that. But still, I don't think that's a<br/>22 proper objection. And I think the witness needs<br/>23 to be the witness, not the lawyer.</p> | <p style="text-align: right;">28</p> <p>1 Q. But you would agree that it's longer, has<br/>2 more paragraphs than Exhibit 3, correct?<br/>3 A. It has more paragraphs than Exhibit 3.<br/>4 Q. Do you know why?<br/>5 A. Because this covers slaughter, debone, and<br/>6 further processing, as it states.<br/>7 Q. And what did Exhibit 3 cover?<br/>8 A. To the best of my knowledge, this only<br/>9 covers slaughter/debone. It states "Fresh<br/>10 Processing" on the cover sheet.<br/>11 Q. All right. Is there any part of Exhibit 17<br/>12 that does not relate to slaughter, debone, and<br/>13 further processing in the same way?<br/>14 MR. ROSENTHAL: Object to the form. In<br/>15 the same way?<br/>16 Q. Is there any part of Exhibit 17 which does<br/>17 not apply to all three areas -- slaughter, debone,<br/>18 and further processing -- in the same way?<br/>19 A. I don't know the answer to that.<br/>20 Q. All right. Well, given the length of this<br/>21 one, I think I'm going to take a few minutes to<br/>22 read it.<br/>23 MR. WIGGINS: Take a break?</p> |
| <p style="text-align: right;">27</p> <p>1 MR. ROSENTHAL: Well, I objected before<br/>2 and you continued to try to refuse the witness by<br/>3 referring to a document incorrectly, which is<br/>4 improper under the rules.<br/>5 MR. WIGGINS: Well, the rules say you<br/>6 can object to the form. And I'm going to object<br/>7 to speaking objections. If the witness answers<br/>8 wrong and you need to redirect him, that's fine;<br/>9 but I don't want you interrupting in the middle of<br/>10 the deposition like that.<br/>11 MR. ROSENTHAL: You don't set the<br/>12 rules, Mr. Wiggins.<br/>13 MR. WIGGINS: No, but I know the rules,<br/>14 and I don't want to have to go to the judge about<br/>15 them.<br/>16 (BY MR. WIGGINS)<br/>17 Q. Did you play any role in this revision<br/>18 that's Exhibit 17?<br/>19 A. No.<br/>20 Q. Do you know why it was revised?<br/>21 A. No.<br/>22 Q. Do you know how it was revised?<br/>23 A. No.</p>  | <p style="text-align: right;">29</p> <p>1 MR. ROSENTHAL: It's your deposition.<br/>2 Q. While he's getting that copied, let me ask<br/>3 you some other questions, and then we'll take a<br/>4 break at that point.<br/>5 Are employees required to process chicken or<br/>6 produce poultry products in a way that does not<br/>7 contaminate the product?<br/>8 A. Yes.<br/>9 Q. Is that one of their principal<br/>10 responsibilities?<br/>11 A. Yes.<br/>12 Q. Are all employees required to do their<br/>13 processing or production work in a manner that<br/>14 produces uncontaminated chicken products?<br/>15 A. Yes.<br/>16 Q. These Good Manufacturing Practices that we<br/>17 have in Exhibit 3 and Exhibit 17, the purpose of<br/>18 them is for employees to be able to produce<br/>19 uncontaminated poultry products, correct?<br/>20 A. Yes.<br/>21 Q. And that benefits the company so that it can<br/>22 sell its products to its customers, correct?<br/>23 A. Yes. And it's a USDA regulation.</p>   |

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| <p style="text-align: right;">30</p> <p>1 Q. Your customers are purchasing from you</p> <p>2 uncontaminated poultry products, correct?</p> <p>3 A. Yes.</p> <p>4 Q. You represent to them that when they</p> <p>5 purchase poultry products from your company, they</p> <p>6 are receiving wholesome, uncontaminated products,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, I don't have a real good copy of this</p> <p>10 map -- I suppose it's as good as you've got -- but</p> <p>11 I want you to help me read it.</p> <p>12 MR. WIGGINS: We'll mark this as</p> <p>13 Exhibit 22.</p> <p>14 (Plaintiffs' Exhibit No. 22 was</p> <p>15 marked for identification and a</p> <p>16 copy of the same is attached</p> <p>17 hereto.)</p> <p>18 Q. Which side do you read this from? This</p> <p>19 side, I suppose. Show me the parking lot.</p> <p>20 MR. ROSENTHAL: You'll have to explain</p> <p>21 for the court reporter what you're pointing to.</p> <p>22 Q. Let's take this red pen and mark the parking</p> <p>23 lot for us.</p> | <p style="text-align: right;">32</p> <p>1 A. Yes.</p> <p>2 Q. And what's the first thing they come to as</p> <p>3 they enter each door in the fresh plant?</p> <p>4 A. A hallway leading to production or break</p> <p>5 room areas.</p> <p>6 Q. And is the break room listed on the map?</p> <p>7 A. Yes. Debone break room listed, evis break</p> <p>8 room listed, back dock break room right here.</p> <p>9 Q. Back dock; it's not listed, is it?</p> <p>10 A. I can't read it if it is.</p> <p>11 Q. Well, write that on there for us.</p> <p>12 A. (Witness complies.)</p> <p>13 Q. Now, where do employees sanitize their boots</p> <p>14 or shoes?</p> <p>15 A. At the entrance of each processing area they</p> <p>16 walk through a floor sanitizer.</p> <p>17 Q. All right.</p> <p>18 A. Any entrance into the building has floor</p> <p>19 sanitizers you walk through nonstop.</p> <p>20 Q. You've got two entries marked. Are there</p> <p>21 others?</p> <p>22 A. Any door leading from the outside. This</p> <p>23 print is so small I can't designate every little</p> |
| <p style="text-align: right;">31</p> <p>1 A. This is the parking lot that I'm marking in</p> <p>2 red.</p> <p>3 Q. All right.</p> <p>4 MR. ROSENTHAL: For the record, Mr.</p> <p>5 Mills marked three areas in red and designated</p> <p>6 them "parking lot."</p> <p>7 Q. And this bigger parking lot is for the fresh</p> <p>8 plant?</p> <p>9 A. Yes.</p> <p>10 Q. And this second biggest parking lot is for</p> <p>11 the further processing plant?</p> <p>12 A. Yes.</p> <p>13 Q. And what's this smallest parking lot for?</p> <p>14 A. Admin parking lot.</p> <p>15 Q. Okay. Now, in the fresh plant, where do</p> <p>16 employees enter the plant?</p> <p>17 A. They can enter at either end, the north or</p> <p>18 south end of the further processing plant.</p> <p>19 Q. All right. Put the word "entry."</p> <p>20 A. (Witness complies.)</p> <p>21 Q. All right. You put E-N-T for the two</p> <p>22 entrances.</p> <p>23 Are employees allowed to enter either door?</p>   | <p style="text-align: right;">33</p> <p>1 door. But every door entering into the processing</p> <p>2 area has a floor sanitizer that keeps the floor</p> <p>3 wet with sanitizer.</p> <p>4 Q. Okay. Show me where the other entrance</p> <p>5 doors are.</p> <p>6 A. I don't know if that's possible, as small as</p> <p>7 this print is.</p> <p>8 There's one in this area; there's one out of</p> <p>9 this control room; there's one out of this</p> <p>10 maintenance shop area; there's one in a doorway</p> <p>11 over here that I cannot see on this print.</p> <p>12 Every door leading into processing has a</p> <p>13 floor sanitizer.</p> <p>14 Q. Okay. Now, is there north, south, east, and</p> <p>15 west on this map?</p> <p>16 A. I do not see one.</p> <p>17 Q. Do y'all -- how do you describe the plant?</p> <p>18 Do you call it the north end or south end, or do</p> <p>19 you have words that describe where you're at in</p> <p>20 the plant?</p> <p>21 A. Just departments.</p> <p>22 Q. Okay. Tell me what the departments are.</p> <p>23 A. Debone.</p>     |

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| <p style="text-align: right;">34</p> <p>1 Q. Write that down.</p> <p>2 A. (Witness complies.)</p> <p>3 Q. Okay.</p> <p>4 A. DSI, shipping, maintenance shop,</p> <p>5 refrigeration room, control room.</p> <p>6 This thing is so small I can't read it.</p> <p>7 This is not right. This is cooler.</p> <p>8 Q. What you had marked as maintenance is really</p> <p>9 the cooler?</p> <p>10 A. This is the maintenance shop.</p> <p>11 Q. Okay.</p> <p>12 A. This is the refrigeration room; this is the</p> <p>13 chiller room; this is the evis department; this is</p> <p>14 the picking room; this is the shackling room; this</p> <p>15 is the back dock, back dock/live receiving; this</p> <p>16 is office areas right here in this area; this is</p> <p>17 the evis break room right here in this open spot;</p> <p>18 this is USDA.</p> <p>19 Q. Where's QA?</p> <p>20 A. QA office is right here; QA manager's office</p> <p>21 is right here; plant manager is right here; my</p> <p>22 office is right here; conference room, production</p> <p>23 manager, production manager, production</p> | <p style="text-align: right;">36</p> <p>1 Q. Okay. And does that door from the</p> <p>2 supervisor's office into debone have a foot</p> <p>3 sanitizer?</p> <p>4 A. No.</p> <p>5 Q. Okay.</p> <p>6 A. Just doors from the outside into the</p> <p>7 processing plant.</p> <p>8 Q. All right. Now, I interrupted you. Where</p> <p>9 are the other supervisors' offices?</p> <p>10 A. There's another supervisor office in this</p> <p>11 area. Honestly, this thing's so jumbled up, I</p> <p>12 can't make out where it's at. But right in this</p> <p>13 area here is a supervisor's office. I believe</p> <p>14 it's in this corner right here.</p> <p>15 And then offices here. Production manager</p> <p>16 is in this area. Sanitation manager has an office</p> <p>17 in this warehouse. This has got offices in it</p> <p>18 which are not drawn.</p> <p>19 Q. What's this called here?</p> <p>20 A. Warehouse. And there's offices in here that</p> <p>21 houses sanitation manager for this plant and</p> <p>22 purchasing for this complex.</p> <p>23 There's a maintenance manager's office in</p> |
| <p style="text-align: right;">35</p> <p>1 coordinator; this is debone break room; this is</p> <p>2 the locker area in the break room; there's also a</p> <p>3 locker area in this break room that I can't even</p> <p>4 see where it's at it's so small.</p> <p>5 Q. Okay.</p> <p>6 A. This is the entrance for the office</p> <p>7 personnel right here.</p> <p>8 Q. All right. Where are the first line</p> <p>9 supervisors' offices?</p> <p>10 A. It's not even shown on this print. Right</p> <p>11 here.</p> <p>12 Q. That's in the production area, correct?</p> <p>13 A. There's an office area right here, and then</p> <p>14 there's a --</p> <p>15 Q. Let me stop you. Is this in the production</p> <p>16 area where these first line supervisors' offices</p> <p>17 are?</p> <p>18 A. No.</p> <p>19 Q. Okay. You've got to go outside the</p> <p>20 production area to get the supervisors?</p> <p>21 A. Through this door right here, and there's a</p> <p>22 door on each end that's going to lead to these</p> <p>23 offices.</p>   | <p style="text-align: right;">37</p> <p>1 this area, a maintenance supervisor's office in</p> <p>2 this area.</p> <p>3 Q. Okay. And the evisceration department</p> <p>4 supervisors' offices are where?</p> <p>5 A. Right here, this back corner right here.</p> <p>6 Q. All right. Now, the production process goes</p> <p>7 from live receiving down to debone?</p> <p>8 A. Yes.</p> <p>9 Q. All right. Now, you had marked for us, but</p> <p>10 let's get it in the record, where these foot</p> <p>11 sanitizing activities are taking place.</p> <p>12 A. There's a number of them. I don't know all</p> <p>13 the exact locations, but I know it's a requirement</p> <p>14 that they are on every entrance into the</p> <p>15 production area on the inside.</p> <p>16 Q. That's a company requirement?</p> <p>17 A. No.</p> <p>18 Q. Whose requirement?</p> <p>19 A. USDA.</p> <p>20 Q. And the company has a policy that employees</p> <p>21 must comply with USDA requirements, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Let's see if we can get a verbal description</p>                            |

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| <p>38</p> <p>1 of where these places are.</p> <p>2 On the debone end of the plant entrance, you</p> <p>3 come down -- you come into the entry and exit</p> <p>4 door, and you walk down a hall that runs parallel</p> <p>5 to the debone department and the debone break</p> <p>6 room, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Then there's a main entrance there across</p> <p>9 the hall from the debone break room that the</p> <p>10 employees enter the production area, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And there is a foot sanitation process at</p> <p>13 that door, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Employees entering the evisceration end of</p> <p>16 the building and the live receiving end of the</p> <p>17 building, when they come in that door, they come</p> <p>18 down that same hall but from the other end of the</p> <p>19 building, correct?</p> <p>20 A. Either end. They can come in either end</p> <p>21 they'd like. They're not required for evis to</p> <p>22 come in one end and debone to come in the other</p> <p>23 end. They can come in either end they'd like.</p>         | <p>40</p> <p>1 Q. Okay. Do you know of any documents that</p> <p>2 list them?</p> <p>3 A. Not as I'm aware of.</p> <p>4 Q. Now, describe your current boot sanitation</p> <p>5 process.</p> <p>6 A. It is a unit mounted on the wall that takes</p> <p>7 and blows chemicals on the floor; it keeps the</p> <p>8 floor wet. And all they do is walk across the</p> <p>9 floor.</p> <p>10 Q. How long has that been the practice?</p> <p>11 A. I don't recall when we started that up.</p> <p>12 Q. Give me your best estimate.</p> <p>13 A. This is totally a guess: three years.</p> <p>14 Totally a guess. I don't know. It's been in a</p> <p>15 while.</p> <p>16 Q. Who would know?</p> <p>17 A. I don't know the answer to that either.</p> <p>18 Q. Are there any documents that describe the</p> <p>19 boot sanitation process that you've said you walk</p> <p>20 across a wet floor?</p> <p>21 A. Not as I'm aware of.</p> <p>22 Q. Does an employee have to push any buttons?</p> <p>23 A. No. They're on timers. They come on</p>  |
| <p>39</p> <p>1 Q. Okay. But down on the evisceration end</p> <p>2 there is another entrance from the hall into the</p> <p>3 production area that has a required boot</p> <p>4 sanitation station, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Now, you pointed us to some others back in</p> <p>7 here. Verbally tell us where you're going from</p> <p>8 and to at the point that you have those boot</p> <p>9 sanitation activities occurring.</p> <p>10 A. Best of my knowledge, and I'm not familiar</p> <p>11 with all that, there is one coming out of the</p> <p>12 control room into the evis department; there is a</p> <p>13 foot sanitizer coming out of the maintenance shop</p> <p>14 into the production area, and --</p> <p>15 Q. Which production area?</p> <p>16 A. Evis. There is a foot sanitizer coming off</p> <p>17 the shipping loading area onto the production</p> <p>18 area.</p> <p>19 Q. Which production area?</p> <p>20 A. Debone. Debone staging area. And I'm sure</p> <p>21 there's more, but I don't remember the other ones.</p> <p>22 I don't remember where the rest of them are</p> <p>23 located.</p> | <p>41</p> <p>1 automatic.</p> <p>2 Q. And are they motion-sensored or just pure</p> <p>3 time?</p> <p>4 A. Pure time.</p> <p>5 Q. Now, describe your prior boot sanitation</p> <p>6 process.</p> <p>7 A. We didn't have one prior to this.</p> <p>8 Q. All right. I've heard described -- I wasn't</p> <p>9 at the depositions, but I've had people tell me</p> <p>10 some of the things that were said. But there was</p> <p>11 mention apparently of some boot sanitation process</p> <p>12 where employees had to punch a button of some</p> <p>13 type. Are you familiar with that?</p> <p>14 MR. ROSENTHAL: Objection to the</p> <p>15 reference that any employee said that at the</p> <p>16 deposition. You can answer.</p> <p>17 A. No, I'm not aware of that. No employee has</p> <p>18 to push a button on the boot sanitizer.</p> <p>19 Q. Does an employee have to do anything other</p> <p>20 than walk across a wet floor?</p> <p>21 A. That's it.</p> <p>22 Q. And that's been the only process you've ever</p> <p>23 had?</p> |



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1 A. Yes.  
2 Q. Now, is an employee required to do anything,  
3 other than enter the building and punch his clock,  
4 before going into the production area?  
5 A. He's not required to. He's required to put  
6 on a hair net, beard net if he has a beard, and  
7 earplugs.  
8 Q. All right. But he's not required to do that  
9 in the production area?  
10 A. No.  
11 Q. Is he required to do it before the employee  
12 enters the production area?  
13 A. Yes.  
14 Q. All right. Is that in writing?  
15 A. Not that I'm familiar with. I'm not saying  
16 it's not; I don't know.  
17 Q. Okay. Now, where is the time card punch  
18 clock?  
19 A. Just inside the doors at the break rooms.  
20 There's a time clock right here that I'm aware of.  
21 Q. Put "TC" right there, so I can remember it  
22 when I see it.  
23 A. Okay. And there's one in this area. I

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1 don't remember which side of the door it's on.  
2 Q. All right.  
3 A. And I know there's one at the hallway right  
4 here for maintenance.  
5 Now, I'm not for sure on the picking and  
6 receiving if there's one back there; I don't know,  
7 because I'm not in that area that much. But I  
8 know these are here. And there's also one in this  
9 break room in that area right there, in the evis  
10 break room.  
11 Q. The picking and receiving employees, they  
12 enter these two main entrance doors that you've  
13 shown us?  
14 A. They can enter either at this entrance, or  
15 if they are live shacklers, they can enter at this  
16 entrance, or they can enter through the  
17 picking/receiving break room area. Either or.  
18 Q. At the beginning of the day, they can come  
19 in through the picking and receiving area?  
20 A. Yes. If they work in that area.  
21 Q. And you think there's a time clock back  
22 there?  
23 A. I don't know; I think. I don't know.

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1 Q. Okay. So as I understand your testimony,  
2 there is nothing that employees are required to do  
3 before they enter the production area, other than  
4 punch their clock?  
5 A. As I stated, hair nets, beard nets, and  
6 earplugs before entering into the production area.  
7 Q. Okay. What are they required to do upon  
8 entry into the production area?  
9 A. Put on their smock, wash their hands before  
10 going to the line.  
11 Q. Anything else?  
12 A. Arm guard if they're using knives or  
13 scissors, after they enter into the production  
14 area.  
15 Q. When you say "arm guard," you mean put it  
16 on?  
17 A. Slide it over your arm.  
18 Q. Okay. Anything else?  
19 A. That's all I'm aware of.  
20 Q. All right. Now, where are the wash basins?  
21 A. Wash basins? When you enter into debone,  
22 they're in this area right here. When you enter  
23 into evis, they're in this area right here. When

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1 you enter from the picking/receiving break room  
2 area when you enter into production, they're right  
3 on the wall when you go through the door. There's  
4 wash basins back here in this area.  
5 Q. What do you call that area?  
6 A. DSI area. There's wash basins here.  
7 There's wash basins in the evisceration department  
8 on this wall here. They're in a lot of locations.  
9 That's the ones I remember at this time.  
10 Q. All right. Now, the first one you told me  
11 about, you're coming from the hall adjacent to the  
12 break room into the debone department?  
13 A. Yes.  
14 Q. And the wash basin is adjacent to the entry  
15 to the debone department?  
16 A. Right beside the entry.  
17 Q. How many stations or spigots do you have?  
18 A. I don't know the answer to that.  
19 Q. Give me an approximation.  
20 A. I don't know.  
21 Q. Are employees required to wash their hands  
22 at that station?  
23 A. They are required to wash their hands before

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1 going to the line, after entering the production  
2 area.  
3 Q. And that's the only wash basin that they use  
4 for that purpose?  
5 A. No.  
6 Q. All right.  
7 A. They've got wash basins in evis department;  
8 they've got wash basins in debone department. The  
9 people that work in DSI can wash here before going  
10 to their job. The people in picking and receiving  
11 can wash here before going to their job.  
12 Q. Okay. Now, the evisceration sink you told  
13 us about is right there as you come in that door  
14 to that area?  
15 A. Yes. Right in front of the door, yes.  
16 Q. Okay. Where do the DSI employees enter into  
17 the production area at the start of the day?  
18 A. I can't really answer where they enter.  
19 They can enter here and walk across; they can  
20 enter into the debone entrance and walk around;  
21 they can enter either one of these areas and walk  
22 to the DSI. I can't tell you that all DSI enter  
23 this area. They're not required to enter no

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1 certain area.  
2 Q. All right. Let me read that new exhibit you  
3 brought me. We'll take a break for a few minutes.  
4 A. Okay.  
5 (A brief recess was taken.)  
6 (BY MR. WIGGINS)  
7 Q. All right. Let's take this book I gave you  
8 and let's look at Exhibit 1. This is called "New  
9 Hire GMP Policy."  
10 During what period of time was this in force  
11 and effect?  
12 A. I can't answer that.  
13 Q. Is it currently in force or effect?  
14 A. Yes.  
15 Q. Give me your best estimate of how long it  
16 has been in force and effect.  
17 A. I don't have a clue on this particular  
18 policy exhibit.  
19 Q. Okay. Let's go to -- Before I go to No. 2,  
20 let me ask you this: Does this New Hire GMP  
21 Policy apply to all employees that are under you,  
22 including the hourly employees in the two plants?  
23 (The witness examines the

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1 document.)  
2 A. Yes.  
3 Q. And you took your time to read the document  
4 before answering, correct?  
5 A. I scanned over it.  
6 Q. Okay. Now let's go to Exhibit No. 2. This  
7 is called "Equity Group - Eufaula Division, LLC  
8 Good Manufacturing Practices (GMP'S)," correct?  
9 A. Yes.  
10 Q. And is this currently in force and effect?  
11 (The witness examines the  
12 document.)  
13 A. Yes, to the best of my knowledge.  
14 Q. All right. And we sat here while you took  
15 your time to read that document also, correct?  
16 A. I scanned over it, yes.  
17 Q. And it's got a signature, Mary Allen. Is  
18 that an hourly employee, more than likely?  
19 A. I don't have a clue. I don't know Mary  
20 Allen.  
21 Q. Are employees required to sign this document  
22 at some point in the process?  
23 A. I don't have an answer to that; I don't

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1 know.  
2 Q. All right. Let's look back at the other  
3 exhibit real quick. It starts at page 4. Do you  
4 know why?  
5 A. No, I don't.  
6 Q. Let's go to Exhibit 3. This is the Equity  
7 Group Eufaula Good Manufacturing Practices for  
8 fresh processing, correct?  
9 A. Yes.  
10 Q. And it says the issue date was March 15,  
11 2004, correct?  
12 A. Yes.  
13 Q. Revised date, October 2, 2006?  
14 A. Yes.  
15 Q. And this is one you earlier identified that  
16 you had signed.  
17 When did Equity Group take over at this  
18 plant, the fresh processing plant?  
19 A. In March of 2004, I believe.  
20 Q. So this was the very first one under Equity  
21 Group's ownership, correct?  
22 A. I can't answer that. I would think so, but  
23 I don't know.



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| <p style="text-align: right;">50</p> <p>1 Q. All right. Do you see any part of Exhibit 3<br/>2 that is not currently in force and effect?<br/>3 (The witness examines the<br/>4 document.)<br/>5 A. To the best of my knowledge, briefly<br/>6 scanning over it, I believe they're all in force<br/>7 at this time.<br/>8 Q. And we sat here while you took time to read<br/>9 through the document.<br/>10 MR. ROSENTHAL: Objection. Not a point<br/>11 in the question. You can answer.<br/>12 A. Well, I briefly scanned over it.<br/>13 Q. Well, we sat here; it appeared you read<br/>14 every paragraph.<br/>15 A. I did not read every paragraph.<br/>16 Q. All right. Well, if you need to read every<br/>17 paragraph to answer my next question, please do<br/>18 so.<br/>19 But as I understand your testimony, the<br/>20 items listed in Exhibit 3 employees have been<br/>21 required to comply with from March 2004 to<br/>22 present, correct?<br/>23 A. Yes, to the best of my knowledge.</p>  | <p style="text-align: right;">52</p> <p>1 A. No.<br/>2 Q. Are employees given training and instruction<br/>3 in how to properly sanitize their hands and<br/>4 gloves?<br/>5 A. I can't answer that. That's handled under<br/>6 my management.<br/>7 Q. What is an SOP?<br/>8 A. Standard operating procedure.<br/>9 Q. Do you have a standard operating procedure<br/>10 for hand/glove washing, other than Exhibit 4, page<br/>11 1?<br/>12 MR. ROSENTHAL: Objection. This<br/>13 witness said he -- he didn't identify this as an<br/>14 SOP. He said he's never seen it before.<br/>15 A. I can't answer that.<br/>16 MR. ROSENTHAL: It appears by the<br/>17 number it was produced by one of the employees.<br/>18 Q. But my question is: Do you have a standard<br/>19 operating procedure?<br/>20 A. I can't answer that.<br/>21 Q. You don't know if there is one for<br/>22 hand/glove washing?<br/>23 A. No, I don't.</p> |
| <p style="text-align: right;">51</p> <p>1 Q. Okay. Let's look at Exhibit 4. What is<br/>2 this document, page 1, called "Correct Hand/Glove<br/>3 Washing"?<br/>4 A. First time I've ever seen it. I don't know.<br/>5 Q. Does it accurately describe what the company<br/>6 instructs employees to do in regard to hand/glove<br/>7 washing?<br/>8 A. I can't answer that. First time I've ever<br/>9 seen this document.<br/>10 Q. I understand that. But the six items listed<br/>11 there, is that what employees are required to do<br/>12 in washing hands and gloves?<br/>13 A. We do not measure the soap by a dime to see<br/>14 if they're using a dime-size soap. I've never<br/>15 known nobody doing that. We never time them to<br/>16 see if they scrub for 10 seconds.<br/>17 Q. It doesn't say anything about timing, but go<br/>18 ahead and finish your answer.<br/>19 A. It says, "Rubbing hands together for at<br/>20 least 10 seconds..." We don't put a stopwatch on<br/>21 them.<br/>22 Q. Do you attend the training that employees<br/>23 receive in regard to sanitation?</p> | <p style="text-align: right;">53</p> <p>1 Q. Do you know if there's one for boot<br/>2 sanitation?<br/>3 A. No, I don't.<br/>4 Q. Look at Exhibit 4, page 2. This is called<br/>5 "G.M.P.S." Do you know what that means?<br/>6 A. No.<br/>7 Q. But you do know what a GMP is, correct?<br/>8 A. Yes.<br/>9 Q. What is a GMP?<br/>10 A. Good manufacturing practice.<br/>11 Q. And that's the policies of the company; is<br/>12 that correct?<br/>13 A. Yeah. That's the manufacturing practices.<br/>14 Q. Those are the practices employees are<br/>15 required to follow?<br/>16 A. Yes.<br/>17 Q. All right. Now, do you see anything in<br/>18 Exhibit 4, page 2, that employees have not been<br/>19 required to do since March 2004?<br/>20 (The witness examines the<br/>21 document.)<br/>22 A. Would you repeat that question, please?<br/>23 Q. Is there any item on Exhibit 4, page 2,</p>                              |

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| <p>54</p> <p>1 called "G.M.P.S" that employees have not been<br/>2 required to comply with since March 2004?<br/>3 A. Yes.<br/>4 Q. Which?<br/>5 A. First, this is the first time I've ever seen<br/>6 this document. We don't have maroon smocks; we<br/>7 don't do fully cooked. And I don't understand<br/>8 this, "V-Megs/Combos/Totes must be washed out when<br/>9 changing from one product to another." I don't<br/>10 know what that means. Because we can put wings in<br/>11 one combo and drumsticks in the combo. But I've<br/>12 never seen this G.M.P.S before.<br/>13 Q. Okay. But the items listed there though<br/>14 accurately reflect what employees are required to<br/>15 do, except for those you just listed, correct?<br/>16 A. Says "No jewelry allowed." We do allow a<br/>17 wedding band as long as it doesn't have sets.<br/>18 Q. Anything else?<br/>19 A. "Floor person only does floor work, no work<br/>20 on the line." That's not a true statement.<br/>21 Q. Okay. Now, what is a true statement in<br/>22 regard to floor persons as to whether they work on<br/>23 the line?</p> | <p>56</p> <p>1 policy because I don't do attendance on hourly<br/>2 personnel; but I know we do have an attendance<br/>3 policy. To state this is the attendance policy we<br/>4 have in place, I can't do that.<br/>5 Q. Okay. Let me refer you to one part of it<br/>6 though.<br/>7 It says, "Accumulation of six points will<br/>8 result in voluntary separation from the company."<br/>9 Is that a true statement for the two plants you<br/>10 supervise?<br/>11 A. Yes.<br/>12 Q. What does it mean "voluntary separation"?<br/>13 A. They quit.<br/>14 Q. Okay. And then it says, first bullet point,<br/>15 "Arriving to work late and otherwise failing to be<br/>16 ready to work at your designated start time equals<br/>17 one-half point," correct?<br/>18 A. I believe that's correct, to the best of my<br/>19 knowledge.<br/>20 Q. Is that a policy that's been followed since<br/>21 Equity took over in March 2004?<br/>22 A. That was a policy that was negotiated in a<br/>23 union contract, and we go by the union contract</p> |
| <p>55</p> <p>1 A. They can do whatever their supervisor asks<br/>2 them to do, as long as they do the proper<br/>3 procedure to do it. I mean, if they work on the<br/>4 floor and they change aprons and wash their hands,<br/>5 they're allowed to work on the line.<br/>6 Q. Okay.<br/>7 A. This, "Water hoses (black for floor, clear<br/>8 for machines)..." I've never seen that before. I<br/>9 have no idea where this document come from. I've<br/>10 never seen it at our plant.<br/>11 Q. I understand that. Do you have a par fried<br/>12 line?<br/>13 A. Yes.<br/>14 Q. Let's go to the next page of Exhibit 4.<br/>15 This is E 739, which apparently means it's<br/>16 produced by the company. Do you recognize it?<br/>17 A. No, I'm not familiar with this.<br/>18 Q. All right. Let's go to Exhibit 5. This is<br/>19 the attendance policy. Are you familiar with that<br/>20 document?<br/>21 (The witness examines the<br/>22 document.)<br/>23 A. I'm not that familiar with the attendance</p>  | <p>57</p> <p>1 between Equity and RWDSU. We go by the contract<br/>2 agreement.<br/>3 Q. Okay. But is this arriving to work late and<br/>4 otherwise failing to be ready to work at your<br/>5 designated start time equaling one-half point, is<br/>6 that the practice followed since March 2004?<br/>7 A. I don't know since March 2004. It's in<br/>8 place today. I don't remember if it went all the<br/>9 way back to 2004.<br/>10 Q. Okay. If an employee is one minute late,<br/>11 can they be given a half point?<br/>12 A. Yes.<br/>13 Q. Does the company timekeeping system allow<br/>14 you to identify when an employee is one minute<br/>15 late?<br/>16 A. Yes.<br/>17 Q. And do you dock an employee's pay when<br/>18 they're one minute late?<br/>19 A. It's according to where they work. When you<br/>20 say "dock their pay," you need to...<br/>21 Q. Is that one minute that they're late<br/>22 subtracted from their pay?<br/>23 A. When you say "subtracted," what department</p>   |

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| <p>58</p> <p>1 are you talking about? If they're on a scheduled<br/>2 time and they get paid from point A to point B and<br/>3 they're not there at point A, yes. But if they're<br/>4 on a clock in/clock out, it will be their clock<br/>5 in/clock out time.<br/>6 Q. And which departments are on scheduled time?<br/>7 A. When you say "scheduled," you mean from a<br/>8 clock in to clock out, or are you talking about<br/>9 from a standard starting time to a standard ending<br/>10 time?<br/>11 Q. You used the words "scheduled time."<br/>12 A. Master card time. Is that what you're<br/>13 referring to?<br/>14 Q. I don't know; I'm asking you. You used the<br/>15 term "scheduled time." What did you mean by that?<br/>16 A. If you're scheduled to be there at 7 a.m.<br/>17 and work until 3:30 p.m., that's scheduled.<br/>18 Q. Okay.<br/>19 A. And if they clock in at 7:01, they get paid<br/>20 from 7:01 until.<br/>21 Q. All right. Now, is that different than<br/>22 master card time?<br/>23 A. Master card is a scheduled time, per se.</p> | <p>60</p> <p>1 Q. Is there a document that identifies which<br/>2 jobs or employees are on a clock-in/clock-out<br/>3 method?<br/>4 A. I don't know the answer to that.<br/>5 Q. Do you know if there's a document that lists<br/>6 the jobs or employees that are on a scheduled time<br/>7 method?<br/>8 A. I don't know the answer to that.<br/>9 Q. And what about the master card? Is there<br/>10 anything that identifies which employees or jobs<br/>11 are subject to a master card method?<br/>12 A. I don't know the answer to that. I don't do<br/>13 payroll.<br/>14 Q. Are there any other methods of timekeeping<br/>15 used for hourly employees, besides those three:<br/>16 scheduled time, master card, and clock in/clock<br/>17 out?<br/>18 A. Not as I'm aware of.<br/>19 Q. An employee that's on a master card method,<br/>20 if he's one minute late, is that subtracted from<br/>21 his pay time?<br/>22 A. Yes.<br/>23 Q. And, of course, an employee on a clock</p> |
| <p>59</p> <p>1 Q. Is master card something that's swiped?<br/>2 A. Yes.<br/>3 Q. Where is the master card swiped?<br/>4 A. At either one of the Kronos time clocks.<br/>5 Q. That's the same time clock that the personal<br/>6 time card is swiped?<br/>7 A. Yes.<br/>8 Q. Who swipes the master card?<br/>9 A. I don't know the answer to that. Either<br/>10 supervisor, superintendent, production manager.<br/>11 One of the managers.<br/>12 Q. Now, is an employee on a clock-in/clock-out<br/>13 basis, is that something different than an<br/>14 employee that's on a scheduled time basis?<br/>15 A. Yes.<br/>16 Q. What's the difference?<br/>17 A. The clock in and clock out is from when they<br/>18 clock in until the end of their shift they clock<br/>19 out.<br/>20 Q. Which employees are on a clock-in/clock-out<br/>21 timekeeping system?<br/>22 A. I'm not familiar with every one of them. I<br/>23 know maintenance is on the clock in/clock out.</p>   | <p>61</p> <p>1 in/clock out, if they're a minute late, they would<br/>2 have that minute subtracted also; is that correct?<br/>3 A. It would be in their clock in/clock out. It<br/>4 would be calculated in their clock in to clock<br/>5 out.<br/>6 Q. Okay. Let's look at Exhibit 6. Do you<br/>7 recognize this document called "General Safety<br/>8 #4"?<br/>9 A. No.<br/>10 Q. It was produced by the company as Bates<br/>11 number 639. Read it. There's 17 sentences --<br/>12 numbered sentences. And tell me is there anything<br/>13 in there that has not been followed or required of<br/>14 employees since March 2004.<br/>15 (The witness examines the<br/>16 document.)<br/>17 A. We don't require safety glasses. "You are<br/>18 required to wear safety glasses and earplugs when<br/>19 entering the process area."<br/>20 We don't require safety glasses for all<br/>21 employees of the complex.<br/>22 Q. Do you require them for any employees?<br/>23 A. Yes.</p>  |

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| <p style="text-align: right;">62</p> <p>1 Q. Which?</p> <p>2 A. Maintenance.</p> <p>3 Q. Any others?</p> <p>4 A. Sanitation. And there may be some others</p> <p>5 that I've not aware of.</p> <p>6 Q. Would there be a document that would list</p> <p>7 which jobs or employees are required to wear</p> <p>8 safety glasses?</p> <p>9 A. Not that I'm aware of.</p> <p>10 Q. And No. 5, I guess, is the one you're</p> <p>11 speaking of about safety glasses, right?</p> <p>12 A. Yes.</p> <p>13 Q. And that says, quote, You are required to</p> <p>14 wear safety glasses and earplugs when entering the</p> <p>15 process area.</p> <p>16 The process area, that's the production</p> <p>17 area?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Now, why would you require some</p> <p>20 employees to wear safety glasses in the production</p> <p>21 area and not others?</p> <p>22 A. It's according to the job they do.</p> <p>23 Q. Do you have job descriptions?</p>  | <p style="text-align: right;">64</p> <p>1 familiar with job descriptions. There are job</p> <p>2 descriptions.</p> <p>3 Q. You've never looked at the job descriptions</p> <p>4 for the employees that report directly to you?</p> <p>5 A. Yes, I've looked at them; I didn't memorize</p> <p>6 them.</p> <p>7 Q. This Exhibit 16 you produced today shows</p> <p>8 five employees reporting to you, other than your</p> <p>9 administrative assistant; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know anything about the job</p> <p>12 descriptions for those five people?</p> <p>13 A. Not as they're written I don't know. I know</p> <p>14 what their job is, but I don't know what their job</p> <p>15 description says.</p> <p>16 Q. Who is responsible for having job</p> <p>17 descriptions or getting them written?</p> <p>18 A. Job descriptions are normally written out of</p> <p>19 our Huntsville office.</p> <p>20 Q. Is that the home office?</p> <p>21 A. That's the division office.</p> <p>22 Q. All right. The head person here in the</p> <p>23 Eufaula division is Mr. Esslinger; is that right?</p> |
| <p style="text-align: right;">63</p> <p>1 A. Yes.</p> <p>2 Q. Do you have job descriptions for hourly</p> <p>3 jobs?</p> <p>4 A. I don't know the answer to that.</p> <p>5 Q. Do you have job descriptions for your job?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have job descriptions for the</p> <p>8 employees that report to you?</p> <p>9 A. Yes, there are some generic job</p> <p>10 descriptions.</p> <p>11 Q. What do you mean by "generic"?</p> <p>12 A. Generic is kind of broad. It's not saying</p> <p>13 in the job description, you know, you get to work</p> <p>14 at X number of time in the morning; you do this,</p> <p>15 this, and this.</p> <p>16 The job description is kind of generic on</p> <p>17 what you need to handle in your area of</p> <p>18 responsibility.</p> <p>19 Q. Let's take you as an example. Is your job</p> <p>20 description as complex operations manager</p> <p>21 different than the job description of Mr. Stevens</p> <p>22 as first processing plant manager?</p> <p>23 A. I don't know that because I'm not that</p> | <p style="text-align: right;">65</p> <p>1 A. Correct.</p> <p>2 Q. And who does he report to?</p> <p>3 A. Tim Lawson.</p> <p>4 Q. What is his job?</p> <p>5 A. I don't know his correct title.</p> <p>6 Q. Where is he located?</p> <p>7 A. Huntsville, Alabama.</p> <p>8 Q. And you called that a division office,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And what geographical territory does it</p> <p>12 cover?</p> <p>13 A. All poultry in the U.S.</p> <p>14 Q. How many plants is that?</p> <p>15 A. I honestly don't know the total correct</p> <p>16 answer to that exactly.</p> <p>17 Q. Give me your best estimate.</p> <p>18 A. I'm guessing seven or eight total plants,</p> <p>19 but that's a guess.</p> <p>20 Q. All right. And what did you say the</p> <p>21 fellow's name in Huntsville is? I didn't write it</p> <p>22 down.</p> <p>23 A. Tim Lawson.</p>  |

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| <p style="text-align: right;">66</p> <p>1 Q. Who does he report to?</p> <p>2 A. Keith Lewis.</p> <p>3 Q. What's his job?</p> <p>4 A. I don't know his exact job title.</p> <p>5 Q. Where is he located?</p> <p>6 A. Huntsville, Alabama.</p> <p>7 Q. And who does Mr. Lewis report to?</p> <p>8 A. He reports to Philadelphia.</p> <p>9 Q. Who?</p> <p>10 A. I believe his name is Jerry Dean. I'm not</p> <p>11 for sure.</p> <p>12 Q. Do you know his title?</p> <p>13 A. I sure don't.</p> <p>14 Q. What is in Philadelphia?</p> <p>15 A. Our corporate office.</p> <p>16 Q. All right. Other than your job description,</p> <p>17 are there any other documents that would describe</p> <p>18 your duties and responsibilities?</p> <p>19 A. Not as I'm aware of.</p> <p>20 Q. Who would be knowledgeable as to whether</p> <p>21 there are job descriptions for hourly employees?</p> <p>22 A. I can't really answer that. I don't know.</p> <p>23 Q. The quality assurance department, does it</p>   | <p style="text-align: right;">68</p> <p>1 from?</p> <p>2 A. No.</p> <p>3 Q. Is there anything within that New Hire</p> <p>4 Allergen Awareness Training that appears not to</p> <p>5 apply to your two plants?</p> <p>6 A. I'm not familiar with it at all.</p> <p>7 Q. Okay. I know you're not familiar with the</p> <p>8 document, but the items listed, are you familiar</p> <p>9 with allergen control programs at your two plants?</p> <p>10 A. No.</p> <p>11 Q. All right. The next page of that Exhibit 7</p> <p>12 is called "New Hire HACCP Training." Who's in</p> <p>13 charge of the HACCP program or policy?</p> <p>14 A. Butch White. It falls under his umbrella.</p> <p>15 Q. And does this New Hire HACCP Training apply</p> <p>16 to your two plants?</p> <p>17 A. Yes.</p> <p>18 Q. And has it applied at all times since March</p> <p>19 of 2004?</p> <p>20 A. Yes.</p> <p>21 Q. The purpose of the -- well, let's first get</p> <p>22 this identified.</p> <p>23 HACCP stands for Hazard Analysis Critical</p>  |
| <p style="text-align: right;">67</p> <p>1 have job descriptions?</p> <p>2 A. Can't answer that; I don't know.</p> <p>3 Q. Has there been any period of time that all</p> <p>4 production employees have been required to wear</p> <p>5 safety glasses?</p> <p>6 A. Yes.</p> <p>7 Q. What period was that?</p> <p>8 A. I don't know the dates.</p> <p>9 Q. Give me your best estimate.</p> <p>10 A. It's been -- we stopped everybody from</p> <p>11 wearing them probably, a guess, a total guess, a</p> <p>12 year ago. And I don't know when we started. I</p> <p>13 don't have a clue.</p> <p>14 Q. At the time Equity Group took over in March</p> <p>15 of 2004, were safety glasses required?</p> <p>16 A. I don't remember.</p> <p>17 Q. Let's look at Exhibit 7. This is called</p> <p>18 "New Hire Allergen Awareness Training."</p> <p>19 Are you familiar with this document?</p> <p>20 A. No.</p> <p>21 Q. Who would be?</p> <p>22 A. Can't answer that; I don't have a clue.</p> <p>23 Q. Do you know what department this originates</p> | <p style="text-align: right;">69</p> <p>1 Control Points, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And the purpose of that Hazard Analysis</p> <p>4 Critical Control Points Program is to prevent</p> <p>5 contamination of poultry products, correct?</p> <p>6 A. Food control based on prevention, yes.</p> <p>7 Q. Now let's look at Exhibit 8. I've not</p> <p>8 produced all in Exhibit 8, the pages; but here's</p> <p>9 the whole book if you want it of the employee</p> <p>10 handbook.</p> <p>11 Looking at the pages that I've excerpted out</p> <p>12 of the employee handbook, have they been in full</p> <p>13 force and effect since March of 2004?</p> <p>14 MR. WIGGINS: And for the record, those</p> <p>15 excerpted are Exhibit 8.</p> <p>16 (The witness examines the</p> <p>17 document.)</p> <p>18 A. I don't know how long this has been in place</p> <p>19 because I'm not familiar with this book, but it</p> <p>20 looks like, just scanning over a few pages, this</p> <p>21 is something we still do. And I don't know how</p> <p>22 long we've been following this. Has this handbook</p> <p>23 been changed? I don't know.</p> |



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| <p style="text-align: right;">70</p> <p>1 Q. All right. The handbook we've been given,<br/>2 is E 516 through 571. And we weren't given a new<br/>3 one today.<br/>4 Do you know if there's ever been another<br/>5 employee handbook besides this one that I'm<br/>6 placing in front of you?<br/>7 A. I don't know.<br/>8 Q. Who would know that?<br/>9 A. HR is the one that hands these out and has<br/>10 them printed. I don't know.<br/>11 Q. Anyone in particular in charge of that in<br/>12 HR?<br/>13 A. Not as I'm aware of. I don't know.<br/>14 Q. Now, look at page 534. It's called "Work<br/>15 Rules and Regulations" in the employee handbook,<br/>16 correct? It's actually page 17 in the employee<br/>17 handbook, but Bates numbered 534. It got cut off<br/>18 there.<br/>19 Page 17, at the bottom, says "Work Rules and<br/>20 Regulations," correct?<br/>21 A. That's what it says there.<br/>22 Q. And it says that you can be disciplined for<br/>23 failing to follow these rules and regulations,</p> | <p style="text-align: right;">72</p> <p>1 A. Quality assurance monitors that; supervisors<br/>2 monitor that; superintendents monitor that.<br/>3 Q. Okay. And does quality assurance have<br/>4 employees at the start of a shift there at the<br/>5 production room entrance to make sure employees<br/>6 have their protective equipment on?<br/>7 A. I can't answer that.<br/>8 Q. Does anyone stand there at the door when<br/>9 they come through to make sure people are properly<br/>10 donning their protective gear and equipment and<br/>11 sanitizing themselves?<br/>12 A. Not as I'm aware of. But we don't sanitize<br/>13 ourselves entering the room.<br/>14 Q. Okay. No. 13 of that same rules and<br/>15 regulations policy says that one item an employee<br/>16 can be disciplined or discharged for is, quote,<br/>17 Failure of an employee to be at his/her appointed<br/>18 workstation and ready to work at his/her scheduled<br/>19 starting time, correct?<br/>20 A. Correct.<br/>21 Q. And that's been in force and effect, to your<br/>22 knowledge, since March 2004?<br/>23 A. Yes, as far as I can remember.</p> |
| <p style="text-align: right;">71</p> <p>1 correct?<br/>2 A. It says the company expects you to follow<br/>3 them, yes.<br/>4 Q. All right. And employees that fail to<br/>5 follow these rules and regulations are subject to<br/>6 discipline, correct?<br/>7 A. Uh-huh.<br/>8 Q. Is that right?<br/>9 A. Yes, sir. That's what it says.<br/>10 Q. Okay. Now, turning to the next page, look<br/>11 at No. 11. One item that employees are subject to<br/>12 discipline or discharged for is, in No. 11,<br/>13 "Failure to wear safety equipment and/or required<br/>14 clothing/uniform," correct?<br/>15 A. Yes, that's what it says.<br/>16 Q. It also says, "In addition to any prescribed<br/>17 discipline, an employee violating this policy may<br/>18 be forced to leave the facility until the company<br/>19 dress code is met," correct?<br/>20 A. Correct.<br/>21 Q. Does quality assurance monitor employees'<br/>22 use of safety equipment and required<br/>23 clothing/uniforms?</p>                              | <p style="text-align: right;">73</p> <p>1 Q. And another item since March 2004 that<br/>2 employees can be disciplined for is violation of<br/>3 safety rules and/or policies, correct?<br/>4 A. Yes.<br/>5 Q. All right. Now turn over to page 40 of the<br/>6 employee handbook.<br/>7 A. (Witness complies.)<br/>8 Q. Are these the safety rules that are referred<br/>9 to in No. 18 that you can be disciplined and<br/>10 discharged for? It's called "General Safety<br/>11 Rules."<br/>12 (The witness examines the<br/>13 document.)<br/>14 A. To the best of my knowledge.<br/>15 Q. All right. And when you sat there and read<br/>16 through the General Safety Rules, you didn't<br/>17 identify any that have not been required of<br/>18 employees since March of 2004, did you?<br/>19 A. No. On page 40.<br/>20 Q. Well, the safety rules are on page 40 to 42,<br/>21 correct?<br/>22 A. I need to read 41 and 42.<br/>23 Q. Okay.</p>  |

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| <p style="text-align: right;">74</p> <p>1 (The witness examines the<br/>2 document.)<br/>3 A. This must be an old one because this has<br/>4 changed.<br/>5 Q. What's changed?<br/>6 A. This says, "Wash hands and arms<br/>7 thoroughly..."<br/>8 Q. Which number?<br/>9 A. No. 18. We don't wash arms. Our current<br/>10 policy says to wash hands. I know that one's<br/>11 changed.<br/>12 Also, it says, "No equipment will be worn<br/>13 outside of work areas." You can wear hair nets,<br/>14 beard nets, earplugs outside of work areas. You<br/>15 can't wear them outside, but you can wear them<br/>16 outside of production areas.<br/>17 It also states here that, "Boots are not to<br/>18 be worn outside of plant." You can wear your<br/>19 boots to and from work.<br/>20 That's the changes I see at this point.<br/>21 Q. Okay. Now, looking at the cover of this<br/>22 employee handbook from which those safety rules at<br/>23 pages 40 to 42 come, it's called Keystone Foods</p>             | <p style="text-align: right;">76</p> <p>1 Q. Is there a document that changed any part of<br/>2 the employee handbook?<br/>3 A. I don't know that.<br/>4 Q. Is there a document that reflects any<br/>5 non-enforcement of certain items in the employee<br/>6 handbook?<br/>7 A. I don't know the answer to that.<br/>8 Q. All right. Now, identify the numbers in<br/>9 pages 40 to 42, General Safety Rules, that you<br/>10 were speaking of that you don't think are<br/>11 currently in force.<br/>12 A. No. 18, No. 20. That's the changes I see.<br/>13 Q. Okay. Now, let's do No. 20 first. That<br/>14 says, for the record, "No equipment will be worn<br/>15 outside of work areas. Boots are not to be worn<br/>16 outside of plant."<br/>17 Now, you say that's a true statement except<br/>18 for hair nets and earplugs and --<br/>19 A. Beard nets.<br/>20 Q. -- beard nets, correct?<br/>21 A. Correct. And safety glasses for the<br/>22 employees that wear safety glasses.<br/>23 Q. But for all other equipment, they're not to</p> |
| <p style="text-align: right;">75</p> <p>1 Equity Group Eufaula Division Employee Handbook,<br/>2 correct?<br/>3 A. Uh-huh.<br/>4 Q. Is that right?<br/>5 A. Yes.<br/>6 Q. So we know then that at some point in time<br/>7 those rules you just listed as not currently being<br/>8 followed were in force and effect, correct?<br/>9 A. We've never enforced no equipment to be<br/>10 worn. We've always allowed hair nets, beard nets,<br/>11 and earplugs to be worn outside the production<br/>12 area. When they were wearing safety glasses, they<br/>13 could wear them to and from work.<br/>14 At one time, we were requiring them to put<br/>15 boots on after they got to work and take them off<br/>16 before they left.<br/>17 Q. What time period was that?<br/>18 A. I cannot answer that. I don't have a clue.<br/>19 Q. Can you tell us if it was more than a year<br/>20 ago?<br/>21 A. I can't answer that. I do not have a clue.<br/>22 Q. Who would know?<br/>23 A. I can't answer that either.</p> | <p style="text-align: right;">77</p> <p>1 be worn outside of the work area, correct?<br/>2 A. Yes. Back up and ask me that question<br/>3 again. All other equipment?<br/>4 Q. Yes.<br/>5 A. Smocks are to be took off before exiting the<br/>6 production area.<br/>7 Q. All right.<br/>8 A. And then their rubber gloves are took off<br/>9 before exiting the production area, and put back<br/>10 on after they get in the production area.<br/>11 Q. All right.<br/>12 A. Arm guards are put on normally after they<br/>13 enter the production area. And if they wear<br/>14 sleeves, they can put them on any time, the<br/>15 production area or going to the production area.<br/>16 Q. Turn over to Exhibit 12, page 21. This is<br/>17 the contract with the union effective March 1,<br/>18 2004, to March 1, 2008.<br/>19 There in Section 13.4, is that a complete<br/>20 list of all the equipment that the employees are<br/>21 provided?<br/>22 MR. ROSENTHAL: What page did you<br/>23 reference?</p>                                   |



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| <p style="text-align: right;">78</p> <p>1 MR. WIGGINS: 21.</p> <p>2 A. I'm looking at the wrong number.</p> <p>3 This is a list of equipment that we issue to</p> <p>4 new employees. And we've got this listed in our</p> <p>5 union negotiations on when they can come back and</p> <p>6 get replacement equipment. But not all employees</p> <p>7 are required to get all this equipment.</p> <p>8 Q. All right. But the contract says, for the</p> <p>9 record, in Section 13.4, "Supplies will be</p> <p>10 furnished to new employees, where required, in</p> <p>11 accordance with company procedures as follows..."</p> <p>12 and then lists three smocks, arm guards, cutting</p> <p>13 glove, hair net, beard net, blue gloves, cotton</p> <p>14 gloves, earplugs, apron - heavy duty, and sleeves,</p> <p>15 correct?</p> <p>16 A. Yes. In this contract, some of these was</p> <p>17 changed. At some time, and I don't know what</p> <p>18 time, we did not issue three smocks. They come in</p> <p>19 and got a new, clean smock every day. They didn't</p> <p>20 have smocks; they just come in and got one out of</p> <p>21 the supply room.</p> <p>22 Q. Do you know when that began?</p> <p>23 A. No.</p> | <p style="text-align: right;">80</p> <p>1 Not all employees get this -- got this. This is</p> <p>2 changed, because this contract ended in March of</p> <p>3 this year, I believe.</p> <p>4 Q. Okay. We'll get to your new contract. But</p> <p>5 during the period of this contract, this was the</p> <p>6 contractual agreement, correct?</p> <p>7 A. Yes. But "Supplies will be furnished to new</p> <p>8 employees, where required..." I want to make that</p> <p>9 clear, "...where required..."</p> <p>10 Q. Yeah, I understand. Is there any document</p> <p>11 that tells us where it is required?</p> <p>12 A. Not that I'm aware of.</p> <p>13 Q. Are there any of these items in Section 13.4</p> <p>14 that are not provided to debone employees --</p> <p>15 employees in the debone department?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. Are there any of these items in Section 13.4</p> <p>18 of the collective bargaining agreement that are</p> <p>19 not supplied to evisceration employees?</p> <p>20 A. Well, you've got positions that don't</p> <p>21 require arm guards, don't require cutting gloves;</p> <p>22 so saying all of debone, all of evis, there are</p> <p>23 employees in those two departments that does not</p> |
| <p style="text-align: right;">79</p> <p>1 Q. Do you know any documents that would tell</p> <p>2 us?</p> <p>3 A. No, I don't.</p> <p>4 Q. All right. Now, this list though that I</p> <p>5 just read to you and that you have in front of you</p> <p>6 from Section 13.4 of the collective bargaining</p> <p>7 agreement, is that a complete list of the</p> <p>8 equipment employees are furnished by the company?</p> <p>9 A. No.</p> <p>10 Q. What's missing?</p> <p>11 A. If we require safety glasses, they are also</p> <p>12 issued by the company.</p> <p>13 Q. Okay. Anything else to make that a complete</p> <p>14 list?</p> <p>15 A. I don't see boots on here.</p> <p>16 Q. Okay. Anything else?</p> <p>17 A. Not that I'm aware of.</p> <p>18 Q. Okay. So with the addition of boots and</p> <p>19 safety glasses, Section 13.4 lists all the</p> <p>20 equipment that employees are provided upon hire,</p> <p>21 correct?</p> <p>22 A. Where required. As this states,</p> <p>23 "...furnished to new employees, where required..."</p>  | <p style="text-align: right;">81</p> <p>1 require all of these supplies.</p> <p>2 Q. Okay. Let's put aside arm guards and</p> <p>3 cutting gloves. Are all the other items in</p> <p>4 Section 13.4, including boots and safety glasses</p> <p>5 -- no, leave off safety glasses. Let me start</p> <p>6 over.</p> <p>7 Other than arm guards, cutting gloves, and</p> <p>8 safety glasses, are all the items in Section 13.4</p> <p>9 supplied to hourly employees by the company in</p> <p>10 both your plants, in all departments?</p> <p>11 A. No. Aprons are not.</p> <p>12 Q. Okay. Which employees receive aprons?</p> <p>13 A. I can't answer that. None of them are</p> <p>14 required. That's up to them if they want to wear</p> <p>15 them, as long as they've got their smock on.</p> <p>16 Q. We're going to get to that. I'm just trying</p> <p>17 to get right now what they're provided.</p> <p>18 Let's take debone department employees, for</p> <p>19 example. Are they provided aprons?</p> <p>20 A. What position in debone?</p> <p>21 Q. First, are any employees in debone provided</p> <p>22 aprons?</p> <p>23 A. They can get aprons if they'd like to.</p>  |

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| <p style="text-align: right;">82</p> <p>1 Q. Are there any employees that are prohibited<br/>2 from getting aprons from the company?<br/>3 A. Not that I'm aware of.<br/>4 Q. Where do they get the aprons?<br/>5 A. Supply room.<br/>6 Q. Okay. Do you furnish employees a standard<br/>7 package of items at the beginning of each week?<br/>8 A. I honestly don't know how the supply room<br/>9 and the management team handles that. I don't<br/>10 know how they do that.<br/>11 Q. Do you know who would know that?<br/>12 A. I sure don't.<br/>13 Q. Do you know if there are any standard<br/>14 operating procedures or other documents that<br/>15 describe how and when protective equipment is<br/>16 issued?<br/>17 A. I'm not aware of that. We go by the union<br/>18 contract.<br/>19 Q. Okay. Do you know what protective equipment<br/>20 is provided to employees initially?<br/>21 A. It's according to the position the employee<br/>22 holds. All employees are required to wear<br/>23 earplugs.</p>              | <p style="text-align: right;">84</p> <p>1 A. Correct.<br/>2 Q. So then was there a period of time that you<br/>3 did require washing of arms?<br/>4 A. I do not remember. I don't know.<br/>5 Q. Who would know that?<br/>6 A. I don't know.<br/>7 Q. Your first line supervisor would probably<br/>8 know that, wouldn't they?<br/>9 A. Should, I would say. I don't know. I can't<br/>10 answer that.<br/>11 Q. All right. But at all times since March of<br/>12 2004, employees could be disciplined or discharged<br/>13 for not washing hands thoroughly with soap and<br/>14 water before and after using bathroom facilities,<br/>15 correct?<br/>16 A. Yes.<br/>17 Q. Now let's go to Exhibit 9. This is the<br/>18 Employee Orientation Manual. You brought a new<br/>19 one that we marked earlier.<br/>20 Page 1 is an agenda of a day of training or<br/>21 orientation for new hires, correct?<br/>22 A. That's what it looks like.<br/>23 Q. All right. And it says between 1:00 and</p>                            |
| <p style="text-align: right;">83</p> <p>1 Q. Are all employees required to wear hair nets<br/>2 and beard nets?<br/>3 A. Yes.<br/>4 Q. Are all employees required to wear smocks?<br/>5 A. No.<br/>6 Q. All employees in the production area are<br/>7 required to wear smocks?<br/>8 A. Yes.<br/>9 Q. All right. Let's look back at page 40 of<br/>10 the Exhibit 8, the employee handbook.<br/>11 A. (Witness complies.)<br/>12 Q. One of the items for which an employee can<br/>13 be disciplined or discharged is No. 3 of the<br/>14 safety rules which says, "Personal protective<br/>15 equipment, which is provided initially by the<br/>16 company, must be worn," correct?<br/>17 A. Yes.<br/>18 Q. All right. Now let's look at No. 18. You<br/>19 identified that as one you said is not fully<br/>20 enforced. I think what you told me is that No. 18<br/>21 is an accurate statement of what employees are<br/>22 required to perform subject to discharge or<br/>23 discipline, except for washing of arms, correct?</p> | <p style="text-align: right;">85</p> <p>1 1:30, the employees are shown a tape about the QA,<br/>2 HACCP, GMP's, SSOPs, and animal welfare, correct?<br/>3 A. That's what it says.<br/>4 Q. Have you ever seen that tape?<br/>5 A. No.<br/>6 Q. Do you know what's covered in the tape?<br/>7 A. No.<br/>8 Q. Then, at 1:45, it says, among other things,<br/>9 the employees are given training in ergonomics<br/>10 presentation and exercises. What does that mean?<br/>11 A. I have no idea. I've never sat through a<br/>12 new hire orientation for hourly associates.<br/>13 Q. Are you familiar with what ergonomic<br/>14 exercises employees are trained to do?<br/>15 A. No.<br/>16 Q. Do you know anything about ergonomic<br/>17 exercises at the two plants you supervise?<br/>18 A. No.<br/>19 Q. Has there been a period where employees do<br/>20 calisthenics?<br/>21 A. What's calisthenics? I don't understand.<br/>22 Q. Exercise. Physical exercise.<br/>23 A. There has been some time when they did do</p> |

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| <p style="text-align: right;">86</p> <p>1 some exercise in the debone department alone.</p> <p>2 Q. What period of time?</p> <p>3 A. I don't know the answer to that.</p> <p>4 Q. What did they do?</p> <p>5 A. I don't know the answer to that.</p> <p>6 Q. Are there any documents that describe it?</p> <p>7 A. Not as I'm aware of. I don't know.</p> <p>8 Q. Are there any standard operating procedures</p> <p>9 regarding that exercise?</p> <p>10 A. I don't know the answer to that.</p> <p>11 Q. All right. Then, at 3:00, the employees are</p> <p>12 given training in several things, including PPE</p> <p>13 use, correct?</p> <p>14 A. That's what this says.</p> <p>15 Q. And it says there's a tape on that subject.</p> <p>16 Have you seen that tape?</p> <p>17 A. No. Never been through a new hire</p> <p>18 orientation for hourly associates.</p> <p>19 Q. What about the safety representative that's</p> <p>20 doing the training on the PPE? Do you know who</p> <p>21 that is?</p> <p>22 A. I don't know who that is.</p> <p>23 Q. Now, PPE means personal protective</p> | <p style="text-align: right;">88</p> <p>1 Q. Now, look through the items that I've</p> <p>2 excerpted out of your Employee Orientation Manual,</p> <p>3 in Exhibit 9, and tell me are there any of those</p> <p>4 items that have not been in full force and effect</p> <p>5 or the employees have not been required to comply</p> <p>6 with since March of 2004.</p> <p>7 A. You're talking about these items?</p> <p>8 Q. Yes. Just those pages out of the</p> <p>9 orientation manual that are in Exhibit 9.</p> <p>10 A. Well, I'm not familiar with the orientation</p> <p>11 manual because, as I stated earlier, I've never</p> <p>12 been through an orientation for hourly associates,</p> <p>13 so I don't know what they do during that process.</p> <p>14 If you'd like me to read these pages, I'll</p> <p>15 be more than glad to, but I still don't know if I</p> <p>16 can answer your question.</p> <p>17 Q. Okay. Well, put aside what they're told in</p> <p>18 the orientation. Someone else will have to tell</p> <p>19 us that, apparently.</p> <p>20 But in terms of the operation of the two</p> <p>21 plants on a day-to-day basis, are there any of</p> <p>22 those items that are in Exhibit 9 that employees</p> <p>23 have not been required to comply with since March</p> |
| <p style="text-align: right;">87</p> <p>1 equipment; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. And what is personal protective equipment?</p> <p>4 What items?</p> <p>5 A. It's according to what we're talking about.</p> <p>6 In this scenario, it was for safety; it's for</p> <p>7 hazardous communications and material handling.</p> <p>8 Q. So in that context, what PPE exists?</p> <p>9 A. I don't know the answer to that. I've never</p> <p>10 been through a new hire orientation.</p> <p>11 Q. All right. Do you know anything about this</p> <p>12 hearing protection training that's at 3:45, listed</p> <p>13 on this document?</p> <p>14 A. No. As I stated, I've never been through a</p> <p>15 new hire orientation, so I don't know what goes</p> <p>16 on.</p> <p>17 Q. You've never had any hearing protection</p> <p>18 training?</p> <p>19 A. Yes, I have, but I've never been through</p> <p>20 this.</p> <p>21 Q. Okay. Have you ever had any ergonomics</p> <p>22 exercise training?</p> <p>23 A. No.</p>   | <p style="text-align: right;">89</p> <p>1 2004?</p> <p>2 A. Okay. The first sheet, the attendance</p> <p>3 policy, I'm not that familiar with the attendance</p> <p>4 policy because I don't do attendance on hourly</p> <p>5 associates. So to give you an answer on the first</p> <p>6 page, I don't know because I don't do the</p> <p>7 attendance.</p> <p>8 Q. Okay. Go to the next document, which is</p> <p>9 "Further Processing GMP's."</p> <p>10 Are there any of those items that employees</p> <p>11 have not been required to comply with since March</p> <p>12 of 2004? at any point in time since March of 2004.</p> <p>13 A. Looks like page 33, I believe we're doing</p> <p>14 that on page 33.</p> <p>15 Q. All right. Look at page 34, which has just</p> <p>16 a few more paragraphs.</p> <p>17 A. It looks like we are doing this on page 34</p> <p>18 and 33.</p> <p>19 Q. Okay. So this Further Processing GMP's,</p> <p>20 which lists 24 numbered sentences of requirements,</p> <p>21 employees have been required to comply with those</p> <p>22 items since March of 2004 at all points in time?</p> <p>23 A. To the best of my knowledge.</p>  |

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| <p style="text-align: right;">90</p> <p>1 Q. All right. Let's go to the next document in<br/>2 the orientation manual, Exhibit 9, which is Bates<br/>3 number E 75, page 35 of the manual, called<br/>4 "Quality Assurance."<br/>5 Has this been in force and effect at all<br/>6 times since March 2004?<br/>7 A. I can't answer that; I'm not over quality<br/>8 assurance.<br/>9 Q. Looking at the items themselves, let's take<br/>10 the first section called "Seven Principles of<br/>11 HACCP."<br/>12 Is that an accurate description of what the<br/>13 company requires in term of identifying and<br/>14 monitoring food safety hazards?<br/>15 A. I can't answer that because I'm not over<br/>16 HACCP or quality assurance.<br/>17 Q. Okay. Look at the second section called<br/>18 "Standard Sanitation Operating Procedures" with an<br/>19 acronym of "SSOPs." Are you familiar with those?<br/>20 A. I'm familiar with what an SSOP is. I'm not<br/>21 familiar with this because I didn't write this<br/>22 document and I'm not over this area.<br/>23 Q. Is there a standard sanitation operational</p> | <p style="text-align: right;">92</p> <p>1 A. Yes.<br/>2 Q. Let's turn to the next page in Exhibit 9,<br/>3 which is page 40 of the operations (sic) manual.<br/>4 And specifically No. 30, there at the top of the<br/>5 page, says, "All employees will follow department<br/>6 safety rules, policies and procedures. Failure to<br/>7 follow safety rules will result in disciplinary<br/>8 action up to and including termination."<br/>9 Has that always been the policy since March<br/>10 of 2004?<br/>11 MR. ROSENTHAL: I'm going to object to<br/>12 that term. I think you referenced this as the<br/>13 operations manual; I believe we're still in the<br/>14 orientation manual.<br/>15 MR. WIGGINS: Okay. I meant<br/>16 orientation manual.<br/>17 A. I don't know about the orientation manual.<br/>18 We do require people to follow our safety rules,<br/>19 policies and procedures.<br/>20 Q. All right. Turn to page 41 of the<br/>21 orientation manual under "Sanitation Safety<br/>22 Rules."<br/>23 A. (Witness complies.)</p> |
| <p style="text-align: right;">91</p> <p>1 procedure for each of those five items?<br/>2 A. I can't answer that. I don't know.<br/>3 Q. Then the next section is called "Standard<br/>4 Operational Procedures SOPs." Is there a document<br/>5 that has an SOP for each of those eight items?<br/>6 A. I can't answer that. I don't know.<br/>7 Q. One of those items, No. 7, is "Washing hands<br/>8 properly." Have you ever seen an SOP on washing<br/>9 hands properly?<br/>10 A. No, I haven't.<br/>11 Q. Who would know if there is an SOP on that<br/>12 subject?<br/>13 A. I can't answer that. I don't know.<br/>14 Q. Turn over to page 39 of the orientation<br/>15 manual.<br/>16 A. (Witness complies.)<br/>17 Q. These items listed, the five bullet points,<br/>18 have been required of employees since March of<br/>19 2004?<br/>20 A. Yes. We ask our people to do this, but I've<br/>21 never seen this summary, per se, here.<br/>22 Q. It accurately summarizes what employees are<br/>23 required to do since March of 2004?</p>  | <p style="text-align: right;">93</p> <p>1 Q. It says, No. 2, "Always wear rain pant legs<br/>2 outside the boot." What does that mean?<br/>3 A. You wear your rain pants on the outside of<br/>4 your boots where chemicals can't get in your<br/>5 boots.<br/>6 Q. And does the company furnish the rain pants?<br/>7 A. Yes.<br/>8 Q. Who is that furnished to?<br/>9 A. Sanitation employees.<br/>10 Q. All right. How many employees do you have<br/>11 in sanitation?<br/>12 A. I don't know the exact number.<br/>13 Q. Are the employees required to wear their<br/>14 rain pants when they're in the production area<br/>15 doing the sanitation work?<br/>16 A. They wear them to home and from home if<br/>17 they'd like.<br/>18 Q. But they're required to have them on in the<br/>19 production area?<br/>20 A. Yes.<br/>21 Q. Okay. Now look at the bottom of that page.<br/>22 It's called, "Three Day Suspension Pending<br/>23 Investigation/Final Notice." It lists five bullet</p>   |

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| <p style="text-align: right;">94</p> <p>1 points.</p> <p>2 Is that an accurate description of what will</p> <p>3 get a three-day suspension pending</p> <p>4 investigation/final notice given to an employee</p> <p>5 for each of those items?</p> <p>6 A. I don't know if that's accurate now with HR</p> <p>7 what steps they follow in disciplinary action. I</p> <p>8 don't know if that is the steps they do follow at</p> <p>9 this time.</p> <p>10 Q. Now let's look at the last bullet point. It</p> <p>11 is accurate since March 2004, isn't it, that you</p> <p>12 can get a three-day suspension pending</p> <p>13 investigation if you, quote, Failure to wear or</p> <p>14 properly wear required personal protective</p> <p>15 equipment, correct?</p> <p>16 A. That's what it says.</p> <p>17 Q. And that's been the practice?</p> <p>18 A. Can't answer that.</p> <p>19 Q. You don't get involved in disciplining</p> <p>20 employees on a three-day suspension?</p> <p>21 A. No.</p> <p>22 Q. Who does?</p> <p>23 A. HR, human resources.</p>  | <p style="text-align: right;">96</p> <p>1 A. You've got Kathy Gilmore can make that</p> <p>2 decision; you've got Dante Rogers could make that</p> <p>3 decision; you've got the one on night shift, and I</p> <p>4 don't know his full name, Julio, can make that</p> <p>5 decision; Jim Bice, as the complex QA manager, can</p> <p>6 make that decision.</p> <p>7 So there's several in HR that has the</p> <p>8 ability to make that decision, along with the</p> <p>9 management person.</p> <p>10 Q. All right. Let's look at page 47 of the</p> <p>11 orientation manual in Exhibit 9. It's called "How</p> <p>12 to Use Plugs." This is referring to earplugs,</p> <p>13 correct?</p> <p>14 A. I guess. First time I've ever seen it.</p> <p>15 Q. All right. But is this an accurate</p> <p>16 statement of the company policy and practice --</p> <p>17 A. I can't answer that.</p> <p>18 Q. Well, I wasn't finished yet.</p> <p>19 A. Okay.</p> <p>20 Q. Since March of 2004, has it been a</p> <p>21 requirement of employees to comply with the</p> <p>22 following sentence: "Your hands and plugs should</p> <p>23 be clean before you put the plugs in your ears"?</p> |
| <p style="text-align: right;">95</p> <p>1 Q. Are they the decision maker as to whether an</p> <p>2 employee will be put on a suspension?</p> <p>3 A. They are, with the employee's manager.</p> <p>4 Q. So if a first line supervisor saw an</p> <p>5 employee not complying with the personal</p> <p>6 protective equipment rules, would they have the</p> <p>7 authority to discipline the employee themselves?</p> <p>8 A. All disciplinary action goes through HR</p> <p>9 department, all suspensions. And that's what we</p> <p>10 were talking about here, three-day suspensions.</p> <p>11 Q. Okay. The first line supervisor can</p> <p>12 initiate the suspension, but it has to be approved</p> <p>13 by human resources?</p> <p>14 A. Yeah. They go up to HR and discuss what</p> <p>15 happened, and they make a decision together.</p> <p>16 Q. The first line supervisor and the HR make a</p> <p>17 joint decision?</p> <p>18 A. Yes.</p> <p>19 Q. Who in HR has responsibility for that?</p> <p>20 A. HR manager.</p> <p>21 Q. But what's the person's name?</p> <p>22 A. What shift are you talking about?</p> <p>23 Q. Each shift. Tell me their names.</p> | <p style="text-align: right;">97</p> <p>1 A. I can't answer that because I don't never</p> <p>2 see no one checking earplugs and ears to see if</p> <p>3 they're clean -- or hands. I'm sorry.</p> <p>4 Q. Do you have any reason to believe that this</p> <p>5 statement in the orientation manual that your</p> <p>6 hands and earplugs should be clean before you put</p> <p>7 the plugs in your ears is not something that the</p> <p>8 employees are trained to do?</p> <p>9 A. As I said, I've never been through a new</p> <p>10 hire orientation, so I don't know what goes on in</p> <p>11 a new hire orientation. I don't know if they</p> <p>12 train them. I don't know.</p> <p>13 Q. I understand that. But do you have any</p> <p>14 reason to believe that this part of the</p> <p>15 orientation manual is not in fact part of the</p> <p>16 training employees are given?</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. Turn to page 51 of the orientation</p> <p>19 manual.</p> <p>20 A. (Witness complies.)</p> <p>21 Q. It has "General PPE Information" at the top.</p> <p>22 This document is called "Personal Protective</p> <p>23 Equipment."</p>              |



| 98  | 100   |
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| <p>1 At the second bullet point, it lists this<br/>2 requirement: "Keep PPE clean and sanitary."<br/>3 Has that always been a requirement that<br/>4 employees are expected to comply with since March<br/>5 of 2004?<br/>6 A. I can't answer that on personal protective<br/>7 equipment. You would think they would like to;<br/>8 it's their ears they're putting the earplugs in.<br/>9 Q. All right. It defines here the personal<br/>10 protective equipment in the following way; I want<br/>11 to see if you agree with this way it defines it.<br/>12 It says, quote, Personal protective equipment is<br/>13 any piece of equipment, article of clothing, or<br/>14 items deemed necessary for the health and safety<br/>15 of employees, prevention of injuries, loss of life<br/>16 or limb, or disease while employees perform their<br/>17 daily job assignments as prescribed.<br/>18 Do you agree with that?<br/>19 A. Yes.<br/>20 Q. What are those items?<br/>21 A. As in?<br/>22 Q. What items of personal protective equipment<br/>23 exist at the two plants?</p>  | <p>1 office."<br/>2 Has that been a policy and practice followed<br/>3 since March of 2004?<br/>4 A. I'm not aware of it. I don't know.<br/>5 Q. Do you know if employees are allowed to wear<br/>6 their own smocks? Bring them from home and wear<br/>7 their own?<br/>8 A. No, they're not allowed to wear their own<br/>9 smocks.<br/>10 Q. Do you know of any items that employees are<br/>11 allowed to furnish themselves as a substitute for<br/>12 the ones that the company furnishes to them?<br/>13 A. Well, it states here that if they do, they<br/>14 need to get it approved through the safety office.<br/>15 This is talking about safety equipment, from what<br/>16 I'm reading here. Personal protective equipment<br/>17 is not a smock.<br/>18 Q. You don't consider a smock part of the<br/>19 personal protective equipment?<br/>20 A. No. We're talking safety here.<br/>21 Q. All right. Well, let's look back at the<br/>22 list of items in the collective bargaining<br/>23 agreement. Look at Exhibit 12 again, page 21.</p> |
| 99  | 101   |
| <p>1 A. It's according to what you're doing. I<br/>2 mean, you're talking about production employees<br/>3 that uses a -- I mean, give me a particular job or<br/>4 a position, and I'll tell you what the PPE is for<br/>5 that job.<br/>6 Q. Is there a document that tells us?<br/>7 A. No, not that I'm aware of. I don't know.<br/>8 Q. Are you able to catalog for every job the<br/>9 PPE that's required?<br/>10 A. Not that I'm aware of.<br/>11 Q. One item on this document, the Employee<br/>12 Orientation Manual, says, at page 51, "Wash hands<br/>13 before inserting earplugs."<br/>14 Has that been a requirement of employees<br/>15 since March of 2004?<br/>16 A. Not that I'm aware of.<br/>17 Q. Do you have any reason to believe that<br/>18 that's something employees are not trained to do?<br/>19 A. I don't know. I don't know what they're<br/>20 trained in new hire orientation.<br/>21 Q. And then the next bullet point says, "Any<br/>22 PPE other than that issued by Equity Group Eufaula<br/>23 Division must be approved through the safety</p> | <p>1 A. (Witness complies.)<br/>2 Q. Does the company consider hair nets and<br/>3 beard net to be personal protective equipment?<br/>4 A. It doesn't state that here.<br/>5 Q. But does the company, in its operations,<br/>6 consider hair nets and beard nets to be personal<br/>7 protective equipment?<br/>8 A. Not that I'm aware of.<br/>9 Q. Does the company consider blue gloves to be<br/>10 personal protective equipment?<br/>11 A. Not that I'm aware of.<br/>12 Q. Does the company consider cotton gloves to<br/>13 be personal protective equipment?<br/>14 A. Not that I'm aware of.<br/>15 Q. Does the company consider aprons or heavy<br/>16 duty aprons to be personal protective equipment?<br/>17 A. Not that I'm aware of.<br/>18 Q. What about sleeves? Are they considered<br/>19 personal protective equipment by the company?<br/>20 A. Not as I'm aware of.<br/>21 Q. And I think you've already said smocks are<br/>22 not considered personal protective equipment,<br/>23 correct?</p>                                     |

| 102   | 104   |
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| <p>1 A. Not for safety.</p> <p>2 Q. All right. I'm not sure what you mean.</p> <p>3 You're saying smocks don't play any role in</p> <p>4 safety?</p> <p>5 A. Correct. In human safety.</p> <p>6 Q. But are smocks considered to be personal</p> <p>7 protective equipment?</p> <p>8 A. Not in my dictionary.</p> <p>9 Q. Okay. What about boots? Are they</p> <p>10 considered personal protective equipment?</p> <p>11 A. Yes.</p> <p>12 Q. Safety glasses?</p> <p>13 A. Yes.</p> <p>14 Q. Arm guards?</p> <p>15 A. Yes.</p> <p>16 Q. Cutting gloves?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Anything else that's considered to be</p> <p>19 personal protective equipment, other than arm</p> <p>20 guards, cutting gloves, boots, and safety glasses?</p> <p>21 A. Earplugs.</p> <p>22 Q. Anything else?</p> <p>23 A. Not that I'm aware of, in a normal</p>   | <p>1 or his sense of touch decreased, that would affect</p> <p>2 his ability to perform his job, correct?</p> <p>3 A. Yes.</p> <p>4 Q. How does the company make sure that the</p> <p>5 gloves its dispensing to employees are properly</p> <p>6 fitting?</p> <p>7 A. We have different sizes; they can get</p> <p>8 whatever size they need.</p> <p>9 Q. Who determines that?</p> <p>10 A. The employee.</p> <p>11 Q. The supply room attendant hands them to them</p> <p>12 or do they go in there and get them themselves?</p> <p>13 A. The supply room gives them whatever size</p> <p>14 they need.</p> <p>15 Q. Okay. The next bullet point says, "Cold</p> <p>16 temperatures can reduce the function of the nerves</p> <p>17 and muscles. In cold temperatures, the fibers of</p> <p>18 the muscles do not work smoothly, which increases</p> <p>19 the risk of tearing fibers."</p> <p>20 Do you agree with that?</p> <p>21 A. I guess. I mean, I'm not a doctor; I don't</p> <p>22 know.</p> <p>23 Q. Do you agree that employees working in cold</p> |
| 103   | 105   |
| <p>1 production job.</p> <p>2 Q. Okay. Now, going back to the page we were</p> <p>3 on, page 51, at the bottom of that page in the</p> <p>4 orientation manual, Exhibit 9, it's got a section</p> <p>5 called "Ergonomics/Proper Lifting."</p> <p>6 Read those items and tell me are those</p> <p>7 things that employees are expected to comply with</p> <p>8 since March of 2004.</p> <p>9 (The witness examines the</p> <p>10 document.)</p> <p>11 A. This is just a brief guideline to go by on</p> <p>12 ergonomics. We don't require all our people to do</p> <p>13 all this, measure 2 inches or do these procedures,</p> <p>14 but it is a proper lifting for ergonomics that we</p> <p>15 would like for our employees to practice. Do we</p> <p>16 require it? Not that I'm aware of. I don't know.</p> <p>17 Q. Look at the bullet point that says, "Avoid</p> <p>18 improperly fitting gloves. Gloves that do not fit</p> <p>19 correctly can impede circulation and decrease the</p> <p>20 sense of touch."</p> <p>21 Do you agree with that?</p> <p>22 A. Yeah.</p> <p>23 Q. If an employee has his circulation impeded</p> | <p>1 temperatures, that can adversely affect their</p> <p>2 ability to perform their jobs in your two plants?</p> <p>3 A. Yes, without proper clothing.</p> <p>4 Q. And what areas of the plant have cold</p> <p>5 temperatures?</p> <p>6 A. Cooler.</p> <p>7 Q. Any other areas?</p> <p>8 A. And the further processing plant, the</p> <p>9 freezer.</p> <p>10 Q. What temperature are the chickens at during</p> <p>11 the processing after slaughter?</p> <p>12 A. At what point?</p> <p>13 Q. Let's take before they go to the chiller.</p> <p>14 A. 90 degrees.</p> <p>15 Q. And what about when they go past the</p> <p>16 chiller, what are they at?</p> <p>17 A. 40 degrees when they come out.</p> <p>18 Q. Is that the lowest they ever get?</p> <p>19 A. 38 to 40. I mean, I don't know exactly</p> <p>20 whatever temperature the birds are.</p> <p>21 Q. What is the temperature in the debone area?</p> <p>22 A. I don't know the answer to that. I'm</p> <p>23 guessing -- and I shouldn't guess -- but 65, 68</p>                               |



| 106  | 108  |
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| <p>1 degrees.<br/>2 Q. Are there any areas of the plant colder than<br/>3 that?<br/>4 A. Cooler.<br/>5 Q. How cold is the cooler?<br/>6 A. 28 to 36 degrees.<br/>7 Q. How many employees work in the cooler?<br/>8 A. When you say "work in the cooler," define<br/>9 "work in the cooler."<br/>10 Q. Well, they're in the cooler enough to be<br/>11 affected by the coldness.<br/>12 A. I still don't understand your question.<br/>13 Q. How many employees are going in and out of<br/>14 the cooler on a regular basis?<br/>15 A. I don't know the answer to that, how many<br/>16 there are.<br/>17 Q. Are there employees stationed so that they<br/>18 have to go in the cooler as a regular part of<br/>19 their job?<br/>20 A. Are they stationed in the cooler or they go<br/>21 in and out of the cooler?<br/>22 Q. Stationed in a way that they go in and out<br/>23 of the cooler frequently.</p>  | <p>1 A. It's according to what position they're<br/>2 working in.<br/>3 Q. Do you know any positions that employees<br/>4 would not be allowed to take mini breaks in order<br/>5 to flex and stretch frequently?<br/>6 A. Define "mini breaks." I don't know what<br/>7 m-i-n-i, means, mini. As in what's the time frame<br/>8 of a mini break?<br/>9 Q. What would it be in your view?<br/>10 A. I don't know. I mean, I don't really know<br/>11 what your definition of a mini break is.<br/>12 Q. Would employees be considered to be in the<br/>13 wrong if they took three to five minutes?<br/>14 A. Yes.<br/>15 Q. Would they be considered to be in the wrong<br/>16 to take a full minute?<br/>17 A. According to what position they're in, where<br/>18 they're at.<br/>19 Q. Which positions would employees have the<br/>20 right to take a minute off to frequently flex and<br/>21 stretch to improve flexibility and increase<br/>22 blood-flow?<br/>23 A. There could be numbers of them; and I don't</p>   |
| 107  | 109  |
| <p>1 A. We have employees that go in and out of the<br/>2 cooler.<br/>3 Q. And how many of those employees do you have?<br/>4 A. I don't know the answer to that.<br/>5 Q. Which employees are they?<br/>6 A. Shipping employees, normally. I mean, we<br/>7 may have other employees go in and out, but<br/>8 shipping is one.<br/>9 Q. And then this next bullet point says, "Take<br/>10 mini breaks during work." That's m-i-n-i. "Take<br/>11 mini breaks during work. It is helpful to pause<br/>12 frequently to flex and stretch. This will improve<br/>13 flexibility and improve blood-flow."<br/>14 Is it permissible for employees to do that<br/>15 while on paid time?<br/>16 A. We need to define "mini breaks." If an<br/>17 employee wants to, after a bird goes by, if they<br/>18 work in a certain area, they can stop for a minute<br/>19 and move.<br/>20 I mean, I don't know the definition of this<br/>21 question.<br/>22 Q. But you think up to a minute employees would<br/>23 be within their rights to -</p> | <p>1 know all of them off the top of my head.<br/>2 Q. All right. Turn over to page 71 of the<br/>3 orientation manual.<br/>4 By the way, let me ask you this question<br/>5 before we go to page 71: If an employee took a<br/>6 mini break during production time, would they<br/>7 still be considered to be at work or working?<br/>8 A. It goes back to the definition of mini<br/>9 break.<br/>10 Q. I mean, if an employee were flexing or<br/>11 stretching in order to increase blood-flow, would<br/>12 that be considered part of their work?<br/>13 A. It's according to the definition of mini<br/>14 break.<br/>15 Q. Within whatever definition the company<br/>16 recognizes, which you said you don't know what it<br/>17 is, but within whatever the company considers a<br/>18 mini break, is that considered to be work time?<br/>19 MR. ROSENTHAL: Objection to the form<br/>20 of the question. You can answer if you can.<br/>21 A. I don't know the answer to that question.<br/>22 Q. All right. Let's go to page 71 of the<br/>23 orientation manual, Exhibit 9.</p> |

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| <p style="text-align: right;">110</p> <p>1 This is called "Hazardous Communications,<br/>2 Hazardous Materials, &amp; Personal Protective<br/>3 Equipment."<br/>4 One of the bullet points says,<br/>5 "Demonstration of donning and appropriate use of<br/>6 required PPE."<br/>7 Have you ever seen that demonstration by the<br/>8 company as to how employees are supposed to don<br/>9 their PPE?<br/>10 A. No, I have not.<br/>11 Q. Who provides that demonstration of proper<br/>12 donning of PPE?<br/>13 A. I can't answer that. Probably supervisors.<br/>14 I don't know the answer to that.<br/>15 Q. Do you know if the company provides a<br/>16 demonstration of proper donning of smocks, gloves,<br/>17 aprons, or sleeves?<br/>18 A. I don't know the answer to that.<br/>19 Q. Let's go to page 80 of the orientation<br/>20 manual. It's called "Clean-Up and Safe<br/>21 Housekeeping."<br/>22 The first bullet point says, "After an<br/>23 accident, the entire area must be cleaned with</p>  | <p style="text-align: right;">112</p> <p>1 Is that required at the plant?<br/>2 A. I don't even know what that means.<br/>3 Q. Do you provide any disinfectants to clean<br/>4 equipment?<br/>5 A. We have disinfectants that we clean the<br/>6 plant with.<br/>7 Q. When employees clean equipment with<br/>8 disinfectant, are they considered to be working?<br/>9 A. Yes.<br/>10 Q. Is that considered to be compensable time?<br/>11 A. Paid time?<br/>12 Q. Paid time.<br/>13 A. Yes.<br/>14 Q. Next page, 81, "Common Sense Rules" is the<br/>15 heading, in the orientation manual.<br/>16 Are each of these items practices followed<br/>17 in your two plants?<br/>18 A. I can't answer that. First time I ever seen<br/>19 it.<br/>20 Q. But in terms of the practices followed in<br/>21 your two plants, is it a rule that employees must,<br/>22 quote, Wash hands and remove protective clothing<br/>23 before eating, drinking, smoking, handling contact</p>   |
| <p style="text-align: right;">111</p> <p>1 disinfectant."<br/>2 Give me an example of what kind of accident<br/>3 we're talking about there.<br/>4 A. I don't know. I've never seen this before.<br/>5 Q. What type of event would occur in one of<br/>6 your two plants that would require employees to<br/>7 clean with disinfectant?<br/>8 A. If an employee gets cut, for example.<br/>9 That's all I can think of because I'm not familiar<br/>10 with this document.<br/>11 Q. If an employee, in that situation of being<br/>12 cut and having to clean with disinfectant, is that<br/>13 considered to be part of their work or their paid<br/>14 time?<br/>15 A. Which employee are you talking about?<br/>16 Q. Any employee in your two plants. If they<br/>17 were -- During the period they're having to clean<br/>18 with disinfectant, is that considered to be part<br/>19 of their work and paid time?<br/>20 A. Yes.<br/>21 Q. All right. Then it says, next bullet point<br/>22 in Exhibit 9, page 80 of the orientation manual,<br/>23 that, "Cleaning equipment must be disinfected."</p> | <p style="text-align: right;">113</p> <p>1 lenses, applying lip balm or cosmetics?<br/>2 A. Not that I'm aware of.<br/>3 Q. But you don't have any reason to believe<br/>4 that this is not an item that employees are taught<br/>5 to do in the orientation?<br/>6 A. As I said earlier, I don't know what they<br/>7 teach them in orientation. I don't know.<br/>8 Q. I know you don't know. But do you have any<br/>9 reason to suspect that this is not taught?<br/>10 MR. ROSENTHAL: Objection to the form<br/>11 of the question.<br/>12 A. I don't know.<br/>13 Q. Let's go to page 83 of the orientation<br/>14 manual called "Other Exposure Hazards." It says<br/>15 this to the employees: "Always wear gloves and<br/>16 protective apron or clothing."<br/>17 Is that an accurate statement of what<br/>18 employees have been required to do?<br/>19 A. I can't answer that, not on "explosion" of<br/>20 hazardous. I would think so on "explosion" of<br/>21 hazard, but I don't know. Exposure of hazards. I<br/>22 don't know.<br/>23 Q. Yeah. You were saying "explosion," but the</p> |

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| 114  | 116  |
| <p>1 word -- let's get the record straight.</p> <p>2 The wording at the top is "Other Exposure</p> <p>3 Hazards," correct?</p> <p>4 A. Yes.</p> <p>5 Q. What's an exposure hazard?</p> <p>6 A. I don't know.</p> <p>7 Q. All right. Let's look at page 91 of the</p> <p>8 Employee Orientation Manual, Exhibit 9 called</p> <p>9 "Good Manufacturing Practices (GMP'S)."</p> <p>10 Have all of these items listed on this page</p> <p>11 been requirements that employees have been</p> <p>12 required to comply with since March of 2004?</p> <p>13 (The witness examines the</p> <p>14 document.)</p> <p>15 A. The best of my knowledge.</p> <p>16 Q. Okay. Let's look at Exhibit 11, the last</p> <p>17 two pages which is called "7 Minute Safety</p> <p>18 Training."</p> <p>19 "Protect yourself with universal</p> <p>20 precautions." Trainer outline 4:30.</p> <p>21 Are you familiar with this type of training</p> <p>22 document?</p> <p>23 A. No, I'm not.</p>  | <p>1 smocks. That happened in this contract. I don't</p> <p>2 know the time frame.</p> <p>3 Q. Okay. Anything else?</p> <p>4 A. To the best of my knowledge, we've followed</p> <p>5 everything else that's in the contract.</p> <p>6 Q. Okay. I'm going to come back to one or two</p> <p>7 of those items. Let me finish these documents</p> <p>8 first.</p> <p>9 Look at Exhibit 13. What is this? It's</p> <p>10 called "Work Rules," but I can't figure out what</p> <p>11 it is.</p> <p>12 A. I don't have a clue.</p> <p>13 Q. Look at the first page of it and see if it</p> <p>14 gives you any idea even remotely what it might be.</p> <p>15 A. No, I have no idea.</p> <p>16 Q. Who would probably know something about what</p> <p>17 this is?</p> <p>18 A. I can't answer that.</p> <p>19 Q. All right. Let's look at Exhibit 14. There</p> <p>20 are two letters here that were produced by the</p> <p>21 company from the Department of Labor, but they're</p> <p>22 not addressed to Equity Group, or anybody really.</p> <p>23 But one document has got a 2007 date, E 171</p>         |
| 115  | 117  |
| <p>1 Q. Let's look at the contract. And if you need</p> <p>2 the full contract, I think we have it out here for</p> <p>3 you somewhere.</p> <p>4 MR. ROSENTHAL: If you need it, I have</p> <p>5 a copy of it.</p> <p>6 Q. Do you know of any items within the</p> <p>7 2004-2008 contract that were not in force or that</p> <p>8 were modified in some way?</p> <p>9 A. I'm not that familiar with the contract. I</p> <p>10 don't remember it word for word. I'd have to look</p> <p>11 through it and see.</p> <p>12 Q. Well, let's take the pages that I've</p> <p>13 excerpted out here in Exhibit 12 in order to</p> <p>14 narrow it down a little bit. These are the pages</p> <p>15 that look like they might be relevant to this</p> <p>16 case.</p> <p>17 Tell me, on those pages in Exhibit 12, are</p> <p>18 there any parts that were not in force during the</p> <p>19 2004 to 2008 contract period?</p> <p>20 A. These smocks, again, as stated earlier.</p> <p>21 Sometime during this contract we started</p> <p>22 furnishing them smocks, and they pick them up at</p> <p>23 the supply window. They was not issued three</p> | <p>1 to 172; the other one has a 2002 date, E 167 and</p> <p>2 168.</p> <p>3 Have you ever seen these before?</p> <p>4 A. I'm not familiar with these documents.</p> <p>5 Q. Have you ever had any responsibility for</p> <p>6 keeping abreast of Department of Labor</p> <p>7 requirements on overtime?</p> <p>8 A. No.</p> <p>9 Q. Have you ever had any responsibility for</p> <p>10 determining compliance with overtime rules or</p> <p>11 regulations?</p> <p>12 A. No.</p> <p>13 Q. Do you know anybody in the company who has</p> <p>14 had responsibility for keeping abreast of overtime</p> <p>15 requirements of the Department of Labor?</p> <p>16 A. I don't have a clue. I mean, I don't know.</p> <p>17 Q. Do you know who made the decision not to pay</p> <p>18 employees for donning, doffing, or sanitizing</p> <p>19 activities before their production line begins?</p> <p>20 MR. ROSENTHAL: Objection to the form</p> <p>21 of the question. You can answer.</p> <p>22 A. We're just following the union contract.</p> <p>23 Everything was negotiated in the union contract,</p> |

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| <p style="text-align: right;">118</p> <p>1 and that's what we go by.</p> <p>2 Q. But do you know who made the decision that</p> <p>3 the company would not pay for donning, doffing, or</p> <p>4 sanitizing time that occurs before the production</p> <p>5 line commences?</p> <p>6 MR. ROSENTHAL: Again, I object to the</p> <p>7 form for the same reason.</p> <p>8 A. No. We were just following the union</p> <p>9 contract.</p> <p>10 Q. So then it wasn't your decision, obviously,</p> <p>11 correct?</p> <p>12 A. No. We just follow in the union contract</p> <p>13 what we negotiated with the union.</p> <p>14 Q. Who do you think is the most knowledgeable</p> <p>15 of the Department of Labor overtime requirements</p> <p>16 or regulations?</p> <p>17 A. I can't answer that.</p> <p>18 Q. Do you know anybody who's knowledgeable?</p> <p>19 A. No. I don't know who would be knowledgeable</p> <p>20 of that.</p> <p>21 Q. Let's go to the last exhibit in the book,</p> <p>22 Exhibit 15. This is called "Equity Group Eufaula</p> <p>23 Division Payroll Processing Manual."</p> | <p style="text-align: right;">120</p> <p>1 A. I don't.</p> <p>2 Q. Do you know how to read this document?</p> <p>3 A. No. I don't use this document.</p> <p>4 Q. Okay. But do you know how to read it?</p> <p>5 A. I could figure it out. But, you know, I'm</p> <p>6 not familiar with it because I don't use it. I</p> <p>7 don't have hourly associates reporting to me.</p> <p>8 Q. Okay. Let's look at the next page, E 696.</p> <p>9 Do you use this type of document or are you</p> <p>10 knowledgeable of it?</p> <p>11 A. I don't use it. I mean, I know what it is.</p> <p>12 Q. What is it?</p> <p>13 A. It just tells the positions and the payroll</p> <p>14 department and the supervisor in that area is, you</p> <p>15 know, what I get out of it. I don't know what</p> <p>16 else you could use it for.</p> <p>17 Q. Let's take the first line, for example. It</p> <p>18 says, Department 21A, Security; Supervisor, J.B.</p> <p>19 Glass; Monday In/Out, and then it has an "E."</p> <p>20 Do you know what that is telling?</p> <p>21 A. No.</p> <p>22 Q. All right. Let's go to E 698 of Exhibit 15.</p> <p>23 This is called "Editing."</p> |
| <p style="text-align: right;">119</p> <p>1 Do you use this?</p> <p>2 A. This manual?</p> <p>3 Q. Yes. Or any parts of the manual that we</p> <p>4 have there in that exhibit. I excerpted out</p> <p>5 certain pages. I'm just asking you about these</p> <p>6 pages.</p> <p>7 A. I don't know because I don't do time sheets.</p> <p>8 I don't know what's being used.</p> <p>9 Q. Have you ever seen this manual before?</p> <p>10 A. No.</p> <p>11 Q. The whole manual? This is the whole manual.</p> <p>12 A. No, I've never seen it.</p> <p>13 Q. This is not something that you use in your</p> <p>14 work?</p> <p>15 A. No, I don't.</p> <p>16 Q. Does anybody under you use this manual?</p> <p>17 A. I can't answer that.</p> <p>18 Q. Let's look at page 1, which is E 695 of</p> <p>19 Exhibit 15. This is called a "Time Detail"</p> <p>20 report, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Do you use that type of document in your</p> <p>23 work?</p>  | <p style="text-align: right;">121</p> <p>1 Do you edit time sheets?</p> <p>2 A. No.</p> <p>3 Q. And do you have any knowledge about the time</p> <p>4 sheet editing process?</p> <p>5 A. No.</p> <p>6 Q. Who would be knowledgeable about the editing</p> <p>7 of time sheets?</p> <p>8 A. I can't answer that.</p> <p>9 Q. We talked earlier about if an employee is</p> <p>10 late by a minute, his payroll will be reduced by</p> <p>11 that minute. How does the company go about doing</p> <p>12 that?</p> <p>13 A. The supervisor would make the changes on the</p> <p>14 time sheets, and then payroll would make the</p> <p>15 adjustments.</p> <p>16 Q. So the supervisor would have the punch-in</p> <p>17 time, correct?</p> <p>18 A. Yes. It would be on his time sheet.</p> <p>19 Q. And where does the supervisor get the</p> <p>20 punch-in time from?</p> <p>21 A. Payroll department.</p> <p>22 Q. Is it on line where he can just dial in to</p> <p>23 it?</p>   |

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| <p style="text-align: right;">122</p> <p>1 A. I don't know.</p> <p>2 Q. And what does he compare the punch-in time</p> <p>3 to, to determine if someone is late?</p> <p>4 A. Master card time. Start time/ending time,</p> <p>5 according to what schedule he's on.</p> <p>6 Q. All right. Master card time, is that the</p> <p>7 same thing as line time?</p> <p>8 A. Yes, I would think so.</p> <p>9 Q. All right. Let's look back at the</p> <p>10 collective bargaining agreement, Exhibit 12.</p> <p>11 Let's look at page 20 of the agreement, Section</p> <p>12 12.5 called "Line Time."</p> <p>13 It consists of this one sentence: "All</p> <p>14 employees will be paid according to the hours of</p> <p>15 work indicated by the Master Line Time Card."</p> <p>16 Correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Now, you earlier told us though that that's</p> <p>19 not true for all employees that are under the</p> <p>20 collective bargaining agreement, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Do you have a list of jobs or employees for</p> <p>23 which it is not true that they will be paid</p>  | <p style="text-align: right;">124</p> <p>1 which is over the payroll department. I would ask</p> <p>2 him who I needed to talk to, and he would send me</p> <p>3 in the right direction.</p> <p>4 Q. All right. Are there floor personnel in the</p> <p>5 evisceration department?</p> <p>6 A. I would think so, yes.</p> <p>7 Q. Do you know how many?</p> <p>8 A. No.</p> <p>9 Q. Are there floor personnel in the debone</p> <p>10 department?</p> <p>11 A. Yeah, I think so.</p> <p>12 Q. Is a floor person different than a setup</p> <p>13 person?</p> <p>14 A. I don't know the answer to that. I don't</p> <p>15 know how they've got it staffed.</p> <p>16 MR. WIGGINS: Now, do you have his</p> <p>17 affidavit that he can look at?</p> <p>18 MR. ROSENTHAL: I don't have an extra</p> <p>19 copy of it.</p> <p>20 MR. WIGGINS: Okay.</p> <p>21 MR. GOULD: Would this be a good time</p> <p>22 to take a break?</p> <p>23 MR. WIGGINS: Sure.</p>    |
| <p style="text-align: right;">123</p> <p>1 according to the Master Line Time Card?</p> <p>2 A. I do not.</p> <p>3 Q. Can you name any such jobs?</p> <p>4 A. Floor personnel would be one. I mean,</p> <p>5 there's probably many, but I don't know them all.</p> <p>6 Q. Tell us the ones you do know.</p> <p>7 A. I honestly don't know. I know floor</p> <p>8 personnel wouldn't because they come early and</p> <p>9 stay late. They're on a different time than the</p> <p>10 line card. I don't know what employees are on</p> <p>11 what time system, whether it be master card, clock</p> <p>12 in to clock out, so I don't know.</p> <p>13 Q. If you were to attempt to determine that,</p> <p>14 what documents would you want to look at?</p> <p>15 A. I would have to just do some research. I</p> <p>16 don't know what documents I'd look at because</p> <p>17 right now I wouldn't know where to look.</p> <p>18 Q. Who would be the first person you would ask</p> <p>19 because you would think they were the most</p> <p>20 knowledgeable?</p> <p>21 A. Payroll department.</p> <p>22 Q. Who in the payroll department?</p> <p>23 A. You've got Joe Preston who's the accountant</p> | <p style="text-align: right;">125</p> <p>1 (A lunch recess was taken.)</p> <p>2 (BY MR. WIGGINS)</p> <p>3 Q. All right. We're talking about the two</p> <p>4 plants you had under you. How many employees are</p> <p>5 in each plant, hourly?</p> <p>6 A. A guess, 11-, 1200 total. That's a guess.</p> <p>7 Q. And that's in both plants together?</p> <p>8 A. Yes.</p> <p>9 Q. And how many in the fresh plant?</p> <p>10 A. A guess, a thousand.</p> <p>11 Q. All right. And are there any practices</p> <p>12 different in the further processing plant from</p> <p>13 those in the fresh plant?</p> <p>14 A. Yes.</p> <p>15 Q. All right. And are there any practices on</p> <p>16 donning, doffing, or sanitizing that are different</p> <p>17 between the two plants?</p> <p>18 A. Yes.</p> <p>19 Q. What?</p> <p>20 A. Boot sanitation is not required at further</p> <p>21 processing.</p> <p>22 Q. What is the McDonald's rule?</p> <p>23 A. On?</p> |



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| <p style="text-align: right;">126</p> <p>1 Q. I've just heard referred to the McDonald's</p> <p>2 rule. Do you know what that means?</p> <p>3 A. No, I don't.</p> <p>4 MR. ROSENTHAL: They don't use tomatoes</p> <p>5 anymore.</p> <p>6 Q. Is McDonald's a customer?</p> <p>7 A. Yes.</p> <p>8 Q. And is it a customer of both plants, fresh</p> <p>9 plant and further processing?</p> <p>10 A. The fresh plant feeds to further processing</p> <p>11 plant.</p> <p>12 Q. Is McDonald's one of your bigger customers?</p> <p>13 A. Yes.</p> <p>14 Q. Is it your biggest customer?</p> <p>15 A. Yes.</p> <p>16 Q. And does it have certain sanitation</p> <p>17 requirements for you to operate under?</p> <p>18 A. Yes.</p> <p>19 Q. What are they?</p> <p>20 A. I don't know all of them. I don't know.</p> <p>21 Q. Tell me the ones you know.</p> <p>22 A. Pretty much what we went over today on</p> <p>23 GMP's, SSOPs. Just standard operating procedures.</p>   | <p style="text-align: right;">128</p> <p>1 Q. When you said there were 11- or 1200 hourly</p> <p>2 employees at the two plants, are all those</p> <p>3 employees subject to the collective bargaining</p> <p>4 agreement?</p> <p>5 A. No.</p> <p>6 Q. How many are subject to the collective</p> <p>7 bargaining agreement?</p> <p>8 A. I don't know the answer to that.</p> <p>9 Q. Which employees are not subject to the</p> <p>10 collective bargaining agreement?</p> <p>11 A. QA department, maintenance department.</p> <p>12 Q. Does QA have hourly employees?</p> <p>13 A. Yes.</p> <p>14 Q. How many employees are in QA?</p> <p>15 A. I don't know the answer to that.</p> <p>16 Q. And QA stands for quality assurance?</p> <p>17 A. Quality assurance.</p> <p>18 Q. Does the quality assurance department</p> <p>19 interact with McDonald's?</p> <p>20 A. Not directly with McDonald's, no.</p> <p>21 Q. Does McDonald's review and sign off on or</p> <p>22 approve your GMP's on sanitation?</p> <p>23 A. Not at my location they don't.</p>   |
| <p style="text-align: right;">127</p> <p>1 Q. McDonald's requires all those things?</p> <p>2 A. They require us to produce safe food is</p> <p>3 their requirements.</p> <p>4 Q. All right. And all your GMP's are put</p> <p>5 together in order to satisfy that requirement?</p> <p>6 A. Not all of them.</p> <p>7 Q. All right. Are most of them for that</p> <p>8 purpose?</p> <p>9 A. No, I wouldn't say most of them. And I</p> <p>10 don't know how many.</p> <p>11 Q. Okay. Do you deal with McDonald's?</p> <p>12 A. No.</p> <p>13 Q. Does anybody under you deal with McDonald's?</p> <p>14 A. Nothing but produce product for them.</p> <p>15 Q. Who does interact with McDonald's, if</p> <p>16 anyone, at the Eufaula Division?</p> <p>17 A. No one directly deals with McDonald's at</p> <p>18 Eufaula Division.</p> <p>19 Q. Okay. Who is your second biggest customer?</p> <p>20 A. I don't know the answer to that.</p> <p>21 Q. All right. Does the company market chicken</p> <p>22 products to the public itself?</p> <p>23 A. No.</p> | <p style="text-align: right;">129</p> <p>1 Q. Do you know if they do that anywhere?</p> <p>2 A. I don't know that.</p> <p>3 Q. How many departments are in the fresh plant?</p> <p>4 A. I don't know. When you say "department,"</p> <p>5 job codes? I don't know how many there are</p> <p>6 totally.</p> <p>7 Q. Each department has a job code?</p> <p>8 A. Yes.</p> <p>9 Q. Well, we had identified various areas here.</p> <p>10 Let me see if I can get the nomenclature down.</p> <p>11 Evisceration, that's a department, correct?</p> <p>12 A. There could be two or three departments</p> <p>13 within that department. Evis is an area.</p> <p>14 Q. What departments are within the evisceration</p> <p>15 department?</p> <p>16 A. You've got salvage. I mean, I don't know</p> <p>17 how they're all broke out. I honestly don't.</p> <p>18 You've got salvage; you've got line 1, line 2;</p> <p>19 you've got rehang; you've got picking and</p> <p>20 receiving; you've got live shacklers.</p> <p>21 There's a lot of them, and I don't know all</p> <p>22 the departments, how they're broke out.</p> <p>23 Q. Okay. And what about evisceration?</p> |

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| <p style="text-align: right;">130</p> <p>1 A. That's what I was talking about.</p> <p>2 Q. I'm sorry. Debone. How many departments</p> <p>3 are within debone?</p> <p>4 A. I honestly don't know. Several.</p> <p>5 Q. More than five?</p> <p>6 A. I would say so. That's a guess.</p> <p>7 Q. Are there any documents that would reflect</p> <p>8 the areas or departments within the debone</p> <p>9 department?</p> <p>10 A. I don't know the answer to that. Payroll</p> <p>11 may have something, but I don't know that. I</p> <p>12 don't know.</p> <p>13 Q. What areas in the production or processing</p> <p>14 part of the plant are not a part of debone or</p> <p>15 evisceration?</p> <p>16 A. DSI is not a part of either.</p> <p>17 Q. All right. Any others?</p> <p>18 A. Shipping, QA, HACCP, maintenance. Those are</p> <p>19 just a few I can name.</p> <p>20 Q. How many employees are in HACCP?</p> <p>21 A. I don't know the answer to that.</p> <p>22 Q. And HACCP, that's the H-A-C-C-P; is that</p> <p>23 what that is?</p> | <p style="text-align: right;">132</p> <p>1 Q. What do they do over there?</p> <p>2 A. Cut meat with a water jet.</p> <p>3 Q. The back dock, is that a department?</p> <p>4 A. Picking and receiving.</p> <p>5 Q. So that's part of the evisceration</p> <p>6 department?</p> <p>7 A. It's got a department of its own, but it</p> <p>8 falls under the first processing or evisceration</p> <p>9 department.</p> <p>10 Q. Now, at the further processing plant, it</p> <p>11 doesn't have an evisceration or debone?</p> <p>12 A. No.</p> <p>13 Q. What does it have?</p> <p>14 A. You've got several areas, but I don't know</p> <p>15 all those departments either, how the people are</p> <p>16 laid out. But you've got a prep area; you've got</p> <p>17 a laydown area; you've got packout area.</p> <p>18 Q. Does McDonald's conduct on-site audits of</p> <p>19 the plant?</p> <p>20 A. McDonald's don't.</p> <p>21 Q. Does someone do that for McDonald's?</p> <p>22 A. Keystone has a group out of Philadelphia</p> <p>23 that does audits.</p> |
| <p style="text-align: right;">131</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And does it have hourly employees?</p> <p>3 Did I ask you that?</p> <p>4 A. Yes.</p> <p>5 Q. And you don't know how many?</p> <p>6 A. Huh-uh.</p> <p>7 Q. Do you know approximately how many?</p> <p>8 A. No.</p> <p>9 Q. How many employees are in shipping?</p> <p>10 A. I don't know the answer to that.</p> <p>11 Q. Give me a ballpark.</p> <p>12 A. It's a total guess: 30.</p> <p>13 Q. And those are all hourly?</p> <p>14 A. Yes.</p> <p>15 Q. And DSI. How many employees are in DSI?</p> <p>16 A. This is an estimate: I'm guessing 160.</p> <p>17 That's a guess; I don't know.</p> <p>18 Q. All right. What about the cooler employees?</p> <p>19 Is that a department?</p> <p>20 A. Shipping.</p> <p>21 Q. Part of shipping? And tell me again what</p> <p>22 DSI stands for.</p> <p>23 A. I don't really know.</p>  | <p style="text-align: right;">133</p> <p>1 Q. Who is that?</p> <p>2 A. Keystone.</p> <p>3 Q. I know. But who? What persons?</p> <p>4 A. I don't know all of them's names. They're</p> <p>5 out of Philadelphia. I don't know.</p> <p>6 Q. And Keystone is the corporation that you are</p> <p>7 employed by; is that correct?</p> <p>8 A. As far as I know. I hope so.</p> <p>9 Q. What's the name of this area that does</p> <p>10 audits of your plant?</p> <p>11 A. Keystone. They're part of the company.</p> <p>12 Q. I mean, is it a department? Does it have a</p> <p>13 name?</p> <p>14 A. Food safety group.</p> <p>15 Q. Who is the head of that group?</p> <p>16 A. Dane Bernard, I think. And I'm not for sure</p> <p>17 of that.</p> <p>18 Q. How often do they audit your food safety</p> <p>19 standards, your practices?</p> <p>20 A. This is a guess totally; I don't know:</p> <p>21 annually. It's according to what part of it</p> <p>22 you're talking about auditing.</p> <p>23 Q. What do they audit?</p>                          |



| 134  | 136  |
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| <p>1 A. Sanitation; they audit animal welfare, pest<br/>2 control. Those are three that I know. They may<br/>3 audit more than that.<br/>4 Q. Is the donning, doffing, and sanitizing<br/>5 activities done by employees with their gloves,<br/>6 smocks, aprons, sleeves, that type of thing, is<br/>7 that part of the sanitation audit?<br/>8 A. I don't know. I don't remember. I honestly<br/>9 don't know.<br/>10 Q. Do you get a report on the results of the<br/>11 audit?<br/>12 A. I don't know the answer to that.<br/>13 Q. Do you know if anybody at the plant<br/>14 interacts with the food safety department more<br/>15 than you?<br/>16 A. QA department.<br/>17 Q. But you don't know any outside group or<br/>18 entity that audits or reviews your food safety<br/>19 practices or your sanitation practices other than<br/>20 USDA?<br/>21 A. Not that I'm aware of. They may, but I'm<br/>22 not aware of it.<br/>23 Q. Now, you told me the different areas that</p> | <p>1 sheet of paper and just draw further processing<br/>2 for me roughly.<br/>3 A. I'm not good at drawing, sir. I'm not a<br/>4 draftsman.<br/>5 Q. Yeah. Well, I understand that.<br/>6 A. Well, I'll just point them to you on this<br/>7 piece of paper.<br/>8 Q. All right.<br/>9 A. There's one of these over here.<br/>10 Q. What is that?<br/>11 A. Fry line.<br/>12 Q. Okay.<br/>13 A. There's a marination room back here; there's<br/>14 another spiral freezer sitting right here; another<br/>15 packout area right here; forklift battery pallet<br/>16 jack area right here has been added on;<br/>17 refrigeration room has been added onto; and a<br/>18 hydraulic room built on here.<br/>19 That's most of the changes that we've made<br/>20 in the plant.<br/>21 Q. How many hourly employees did you have<br/>22 before the changes at the further processing<br/>23 plant?</p> |
| 135  | 137  |
| <p>1 are in the plant. Write them down for me on this<br/>2 map that we have marked. Write each of the<br/>3 production areas down and show me where they're<br/>4 at.<br/>5 A. Explain what you're wanting me to write<br/>6 down. I mean, like, parking lot, debone.<br/>7 Q. The production area. Tell us where each<br/>8 thing is.<br/>9 A. First off, this print is not up to date, so<br/>10 whatever I write down won't be accurate because<br/>11 the plant has been changed since whenever this<br/>12 print was made.<br/>13 Q. When was it changed?<br/>14 A. It was back the first of this year, I<br/>15 believe.<br/>16 Q. How was it changed?<br/>17 A. We added to it, put another line in. This<br/>18 plant is not nothing like what the plant is now.<br/>19 Q. Even the old part is not laid out the same<br/>20 way?<br/>21 A. Not all of it. Some of it is; some of it's<br/>22 not.<br/>23 Q. All right. Well, why don't you just take a</p>                         | <p>1 A. Total guess: 100.<br/>2 Q. And now you've got about 200?<br/>3 A. Yes. And them are all ballpark figures. I<br/>4 do not know the exact numbers.<br/>5 Q. How many fry lines do you have?<br/>6 A. Two.<br/>7 Q. And before the change you had one?<br/>8 A. Yes.<br/>9 Q. How many marination do you have?<br/>10 A. Explain to me what you're asking.<br/>11 Q. You said you have a marination area over<br/>12 here now. Is that the only one you've got?<br/>13 A. The marination feeds the fry room. Yes,<br/>14 that's the only one we have.<br/>15 Q. How many spiral freezers do you have now?<br/>16 A. Two.<br/>17 Q. And you had one before the change?<br/>18 A. Yes.<br/>19 Q. You have two packout areas now?<br/>20 A. Yes.<br/>21 Q. And you had one before the change?<br/>22 A. Yes.<br/>23 Q. The forklift battery pallet jack area, did</p>                                |

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| <p style="text-align: right;">138</p> <p>1 you have one before the change?</p> <p>2 A. Yes.</p> <p>3 Q. And now you have two?</p> <p>4 A. No, we just have one. We had to move this</p> <p>5 one to put marination in it.</p> <p>6 Q. Okay. And the refrigeration room. You had</p> <p>7 one before the change?</p> <p>8 A. Yes.</p> <p>9 Q. And how many do you have now?</p> <p>10 A. We've got one, but it's a lot larger.</p> <p>11 Q. Okay. And the hydraulic area, did you have</p> <p>12 that before the change?</p> <p>13 A. Yes.</p> <p>14 Q. Do you have two now or just a larger one?</p> <p>15 A. Just one.</p> <p>16 Q. Okay. Now, what production areas do you</p> <p>17 have in the further processing, other than fry</p> <p>18 line, marination, spiral freezer, packout,</p> <p>19 forklift battery, refrigeration, and hydraulic?</p> <p>20 A. Got a cooler and we've got a freezer.</p> <p>21 Q. Anything else?</p> <p>22 A. That's all I can remember.</p> <p>23 Q. All right. Now, organizationally, are each</p>  | <p style="text-align: right;">140</p> <p>1 A. Normally, right here.</p> <p>2 Q. Okay. Just write "entry" right there.</p> <p>3 A. (Witness complies.)</p> <p>4 Q. And is that location of the entry the same</p> <p>5 before and after the recent changes?</p> <p>6 A. Yes. An entry here, got an entry right</p> <p>7 here, maintenance and QA enters here, there's an</p> <p>8 entrance, accounting/admin entrance here.</p> <p>9 Q. Now, which entrance does the production room</p> <p>10 employees come through?</p> <p>11 A. Mainly right here.</p> <p>12 Q. And that's the one next to the picnic area?</p> <p>13 A. Yes.</p> <p>14 Q. Y'all have one picnic area for that plant?</p> <p>15 A. Yes.</p> <p>16 Q. And they come into a hall?</p> <p>17 A. Yes.</p> <p>18 Q. And the first thing they have there is a</p> <p>19 break room?</p> <p>20 A. Yes.</p> <p>21 Q. Where's the supply room?</p> <p>22 A. Right there.</p> <p>23 Q. All right. So that's down the hall from the</p>        |
| <p style="text-align: right;">139</p> <p>1 of those considered a separate department?</p> <p>2 A. I don't know how the employees are charged</p> <p>3 to what area. I don't know that. I don't know.</p> <p>4 Q. Do you have any administrative offices at</p> <p>5 the further processing plant?</p> <p>6 A. Yes.</p> <p>7 Q. Where are they?</p> <p>8 A. Right here, these four offices. There's an</p> <p>9 office in the maintenance shop; there's an office</p> <p>10 right here in the maintenance shop; there's an</p> <p>11 office right here; there's a USDA office right</p> <p>12 here; there's an office right here; there's an</p> <p>13 office right here; all accounting offices is over</p> <p>14 here; general manager's office is right here.</p> <p>15 Q. So is there an HR function in the further</p> <p>16 processing plant?</p> <p>17 A. No.</p> <p>18 Q. Is there a QA function within that plant?</p> <p>19 A. Yes.</p> <p>20 Q. Where are they?</p> <p>21 A. Right in this area.</p> <p>22 Q. Okay. And where do employees enter the</p> <p>23 further processing plant?</p> | <p style="text-align: right;">141</p> <p>1 break room, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Where do you enter the production area?</p> <p>4 A. Right here.</p> <p>5 Q. All right. So you come in the door by the</p> <p>6 picnic area, you walk down a hall that runs</p> <p>7 adjacent to the break room; and at the end of the</p> <p>8 break room, you turn right into another hall that</p> <p>9 leads into the entry door to the production area?</p> <p>10 A. Yes.</p> <p>11 Q. Now, where's the time clock?</p> <p>12 A. Right here, I believe. Right in that</p> <p>13 hallway, right on the break room wall, I think.</p> <p>14 Q. And you have no boot sanitation in this</p> <p>15 plant; is that correct?</p> <p>16 A. No.</p> <p>17 Q. Is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. Never have had any?</p> <p>20 A. Not as I'm aware of.</p> <p>21 Q. Where are the restrooms?</p> <p>22 A. I believe they're right here.</p> <p>23 Q. Across the hall from the break room?</p> |

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| <p style="text-align: right;">142</p> <p>1 A. And right here.</p> <p>2 Q. Okay.</p> <p>3 A. It's hard to tell on this print.</p> <p>4 Q. Yeah, it is. So there are no restrooms</p> <p>5 within the production area in either plant,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. There are no break rooms in the production</p> <p>9 area in either plant?</p> <p>10 A. Correct.</p> <p>11 Q. Where is the nurse's station?</p> <p>12 A. Nurse's station? I believe that's labeled</p> <p>13 nurse's station.</p> <p>14 Q. And that serves both plants?</p> <p>15 A. Yes.</p> <p>16 Q. And it's, just for the record's sake, it</p> <p>17 looks like it's a separate building; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And it sits out by the parking lot?</p> <p>21 A. Yes. Right off the sidewalk.</p> <p>22 Q. Right out front of the fresh processing</p> <p>23 plant, correct?</p>   | <p style="text-align: right;">144</p> <p>1 A. No.</p> <p>2 Q. Do you know how long it takes employees to</p> <p>3 walk from their station on the line back to the</p> <p>4 bathroom?</p> <p>5 A. No.</p> <p>6 Q. Or to the break room?</p> <p>7 A. No.</p> <p>8 Q. Or to the QA department?</p> <p>9 A. No.</p> <p>10 Q. Do you know the amount of times it takes</p> <p>11 employees to don or doff or sanitize their</p> <p>12 protective gear or equipment?</p> <p>13 A. No.</p> <p>14 Q. Has the company ever studied any of the</p> <p>15 amounts of time it takes to do any task related to</p> <p>16 donning, doffing, or sanitizing protective gear or</p> <p>17 equipment?</p> <p>18 A. Not that I'm aware of, but I don't know.</p> <p>19 Q. Has the company, or anyone on behalf of the</p> <p>20 company, videotaped employees donning, doffing,</p> <p>21 sanitizing, or walking time?</p> <p>22 A. Has the company -- are you talking about the</p> <p>23 company officials?</p>   |
| <p style="text-align: right;">143</p> <p>1 A. Correct.</p> <p>2 Q. All right. Employees are not allowed to</p> <p>3 have candy, gum, food, drink, or anything of that</p> <p>4 sort, in the production area; is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. So employees have to leave the production</p> <p>7 area to either get supplies from the supply room,</p> <p>8 to go to the nurse's station, to go to bathroom,</p> <p>9 to go to the QA office, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Is that true of both plants?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Do you know how much time it</p> <p>14 takes for employees to walk from the front door to</p> <p>15 the time clock?</p> <p>16 A. No.</p> <p>17 Q. Do you know how long it takes employees to</p> <p>18 walk from the supply room to the entry to the</p> <p>19 production room?</p> <p>20 A. No.</p> <p>21 Q. Do you know how long it takes employees to</p> <p>22 walk from the break room to the entry to the</p> <p>23 production area?</p> | <p style="text-align: right;">145</p> <p>1 Q. The company, or anybody acting on the</p> <p>2 company's behalf, such as an outside consultant or</p> <p>3 person.</p> <p>4 Has anybody ever videotaped employees when</p> <p>5 they are performing activities related to donning,</p> <p>6 doffing, or sanitizing protective gear or</p> <p>7 equipment, or walking from a supply room, break</p> <p>8 room, or bathroom to their workstation?</p> <p>9 A. Yes.</p> <p>10 Q. When was that done?</p> <p>11 A. I don't know the answer to that.</p> <p>12 Q. Approximately when?</p> <p>13 A. I don't have a clue how to even guess. I</p> <p>14 don't remember.</p> <p>15 Q. Is it possible it was within the last year?</p> <p>16 A. It's possible, but I don't know the date.</p> <p>17 Q. Did you see them videotape?</p> <p>18 A. No, I did not see them videotape.</p> <p>19 Q. What's the source of your knowledge?</p> <p>20 A. Just that somebody come in and done a study</p> <p>21 on how long it would take to don and doff.</p> <p>22 Q. And have you seen the results of the study?</p> <p>23 A. No, I have not.</p> |

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| <p style="text-align: right;">146</p> <p>1 Q. Do you know any of the amounts of time that<br/>2 were learned or determined?<br/>3 A. No.<br/>4 Q. Do you know who it is that did the<br/>5 videotaping?<br/>6 A. No.<br/>7 Q. Did you assist in making arrangements for<br/>8 the videotaping?<br/>9 A. No, I did not.<br/>10 Q. Have you watched the videotapes?<br/>11 A. No.<br/>12 Q. Have you seen any parts, pictures or<br/>13 anything, produced from the videotapes?<br/>14 A. No.<br/>15 Q. Do you know anybody at the plant who has<br/>16 been involved with the videotaping?<br/>17 A. Not directly I do not.<br/>18 Q. Who was in charge of supervising the<br/>19 videotape process?<br/>20 A. I don't know. I honestly don't know.<br/>21 Q. Why did you do the videotaping?<br/>22 A. I don't know that.<br/>23 Q. Have you ever made a determination that it</p>  | <p style="text-align: right;">148</p> <p>1 that what you're asking?<br/>2 Q. No. I think I asked you that earlier today.<br/>3 But right now I'm just asking if you've made a<br/>4 decision or made a determination that it's<br/>5 administratively too difficult or impractical to<br/>6 keep up with the amount of time employees<br/>7 typically take to don, doff, or sanitize their<br/>8 protective gear or equipment.<br/>9 MR. ROSENTHAL: Objection to the form<br/>10 of the question.<br/>11 A. No, I haven't made that decision.<br/>12 Q. Do you know anybody who has?<br/>13 A. No.<br/>14 Q. Do you know anybody who has that as part of<br/>15 their responsibility?<br/>16 A. Not that I'm aware of.<br/>17 Q. Did you participate in the decision to pay<br/>18 three minutes for donning and doffing time?<br/>19 A. I was at the negotiating table when it was<br/>20 negotiated between the company and RWDSU.<br/>21 Q. Other than sitting at the table, did you<br/>22 participate in that decision, that three minutes<br/>23 would be the amount of time the company would pay</p> |
| <p style="text-align: right;">147</p> <p>1 is administratively impractical to keep up with<br/>2 employees' donning, doffing, or sanitizing time?<br/>3 A. Repeat the question.<br/>4 Q. Have you ever made a determination that it's<br/>5 administratively impractical to record or keep up<br/>6 with the amount of time employees are spending<br/>7 donning, doffing, or sanitizing protective gear or<br/>8 equipment?<br/>9 MR. ROSENTHAL: Objection to the form<br/>10 of the question. You can answer.<br/>11 A. I don't know the answer. I don't understand<br/>12 the question.<br/>13 Q. Have you ever made a determination that<br/>14 it's, from an administrative standpoint,<br/>15 impractical for the company to track and record<br/>16 and then pay for the amount of time it takes to<br/>17 don or doff or sanitize protective gear or<br/>18 equipment?<br/>19 MR. ROSENTHAL: Objection again to the<br/>20 form of the question.<br/>21 A. Not that I'm aware of. I really don't know.<br/>22 Are you asking me have I made a decision not to<br/>23 pay for donning and doffing, in simple terms? Is</p> | <p style="text-align: right;">149</p> <p>1 for donning and doffing clothes or equipment?<br/>2 A. As a group, that's what we negotiated as a<br/>3 group.<br/>4 Q. Okay. Yeah. I'm going to get into the<br/>5 negotiation in a minute. But right now I'm trying<br/>6 to figure out are you the decision maker.<br/>7 Did you make the decision that three minutes<br/>8 was the appropriate amount of time, or were you<br/>9 just going along for the ride?<br/>10 A. As a group, we made the decision.<br/>11 Q. What role did you play in that decision?<br/>12 A. As a group member.<br/>13 Q. But you said you never tried to determine<br/>14 the actual time it takes to do these activities,<br/>15 correct?<br/>16 A. No, I have not.<br/>17 Q. Do you know anybody who has?<br/>18 A. No.<br/>19 Q. Do you know how they arrived at three<br/>20 minutes?<br/>21 A. I get dressed and go out in the plant, and<br/>22 it don't take me three minutes.<br/>23 Q. What do you put on?</p>  |

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| <p style="text-align: right;">150</p> <p>1 A. Smock, hair net, beard net, earplugs, boots.</p> <p>2 Q. You don't wear your boots during the regular</p> <p>3 part of your day?</p> <p>4 A. No.</p> <p>5 Q. Now, do you know anybody who has made a</p> <p>6 determination that three minutes is the actual</p> <p>7 amount of time it takes to do donning/doffing of</p> <p>8 protective gear or equipment?</p> <p>9 A. Not that I'm aware of.</p> <p>10 Q. Did you ever see any documents that</p> <p>11 referenced three minutes as the amount of time to</p> <p>12 be paid or negotiated for donning and doffing?</p> <p>13 A. No.</p> <p>14 Q. Did the union, to your knowledge, make any</p> <p>15 time study or effort to determine the amount of</p> <p>16 time it actually takes to don and doff?</p> <p>17 A. I can't answer that. Not to my knowledge,</p> <p>18 but I don't know.</p> <p>19 Q. Who was in the group that you say was</p> <p>20 involved in the negotiations that led to the</p> <p>21 three-minute time period?</p> <p>22 A. It's listed in the contract. I don't</p> <p>23 remember all the names, but it's on the contract.</p> | <p style="text-align: right;">152</p> <p>1 A. Not as I'm aware of.</p> <p>2 Q. Have you ever looked into what other</p> <p>3 companies do in terms of keeping up with the time</p> <p>4 taken to don or doff protective gear or equipment</p> <p>5 for pay purposes?</p> <p>6 A. No, I haven't.</p> <p>7 Q. Do you know anything at all that was</p> <p>8 considered in deciding that three minutes would be</p> <p>9 the appropriate amount of time to pay for donning</p> <p>10 and doffing?</p> <p>11 A. Other than our own personal time for what it</p> <p>12 takes for us to get dressed and walk out to the</p> <p>13 plant. That's all I know. That's what I based my</p> <p>14 ruling on.</p> <p>15 Q. What did the union propose as the</p> <p>16 appropriate amount of time, prior to reaching the</p> <p>17 final agreement?</p> <p>18 A. I can't remember. I can't answer that. I</p> <p>19 don't know.</p> <p>20 Q. Now, we were given some documents this</p> <p>21 morning, Exhibits 19 and 20, which had to do with</p> <p>22 union proposals and company responses.</p> <p>23 Do any of those documents reference the</p> |
| <p style="text-align: right;">151</p> <p>1 Q. All right. Tell me what part your speaking</p> <p>2 of.</p> <p>3 A. This is not a signed contract. It would be</p> <p>4 one with signatures in it.</p> <p>5 Q. See if that's one.</p> <p>6 A. (Witness complies.)</p> <p>7 Q. Okay. Page 29 you're handing me, which is</p> <p>8 Bates number E 6007. I don't see your name on</p> <p>9 here. There you are. Okay.</p> <p>10 So for the company it's Tim Esslinger, Jim</p> <p>11 Bice, Greg Mills, and Kathy Gilmore?</p> <p>12 A. Yes.</p> <p>13 Q. Anyone else involved in that decision to</p> <p>14 agree to three minutes?</p> <p>15 A. Just the ones on that list, and the union.</p> <p>16 Q. And the union members are listed to the left</p> <p>17 of your name on page 29 of that exhibit?</p> <p>18 A. Yes.</p> <p>19 Q. Are all the union members employees of</p> <p>20 Equity Food Group, except Henry Jenkins?</p> <p>21 A. Jerry Foster's not.</p> <p>22 Q. Okay. Have you had any administrative</p> <p>23 difficulties since paying the three minutes?</p>  | <p style="text-align: right;">153</p> <p>1 negotiations over the three minutes?</p> <p>2 A. I do not see anything in 19; I don't see</p> <p>3 anything in Exhibit 20 either.</p> <p>4 Q. Okay. Is Spence Jernigan still with the</p> <p>5 company?</p> <p>6 A. Yes.</p> <p>7 Q. What's his job now?</p> <p>8 A. I don't know his job title, but he's</p> <p>9 director of HR.</p> <p>10 Q. Where is he located?</p> <p>11 A. Huntsville.</p> <p>12 Q. Did he play any role in the new contract</p> <p>13 negotiations in 2008?</p> <p>14 A. No.</p> <p>15 Q. Is James Davis still with the company?</p> <p>16 A. No.</p> <p>17 Q. Where is he now?</p> <p>18 A. He's working for another firm in Eufaula.</p> <p>19 Q. And what's the name of it?</p> <p>20 A. I think Cooper Lighting, but I don't know.</p> <p>21 Q. It's not a poultry --</p> <p>22 A. No.</p> <p>23 Q. Why did he leave the company?</p>  |

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| <p>154</p> <p>1 A. Better benefits he said, and better<br/>2 opportunity.<br/>3 Q. Now, when you signed the 2004 contract, you<br/>4 signed it as plant manager, correct?<br/>5 A. Yes.<br/>6 Q. Were you in charge of both plants at that<br/>7 time?<br/>8 A. No.<br/>9 Q. Did this contract apply to both plants, the<br/>10 2004 contract?<br/>11 A. Yes.<br/>12 Q. It did?<br/>13 A. Yes. All bargaining units.<br/>14 Q. Okay. What employees in the further<br/>15 processing plant are not subject to the collective<br/>16 bargaining agreement?<br/>17 A. QA and maintenance.<br/>18 Q. Now, are employees rotated from job to job?<br/>19 A. Yes.<br/>20 Q. Are there any employees who are not subject<br/>21 to rotation?<br/>22 A. Yes.<br/>23 Q. Hourly employees, I mean, production</p>   | <p>156</p> <p>1 performing, what job he would be performing?<br/>2 A. I don't know. I don't know the answer to<br/>3 that at this point.<br/>4 Q. Who do you think would be knowledgeable on<br/>5 that subject?<br/>6 A. Supervisors or shift managers.<br/>7 Q. But employees, when they come to work in the<br/>8 morning, don't know which job they're going to be<br/>9 assigned?<br/>10 A. I don't know the answer to that. I don't<br/>11 know how they manage their people.<br/>12 Q. You said earlier that the company has<br/>13 employees doing physical exercises in some areas,<br/>14 correct?<br/>15 A. I don't remember saying that.<br/>16 Q. Well, I thought I remember you saying this<br/>17 morning that the employees at some point in time<br/>18 have done physical exercises during the day.<br/>19 A. They have at some point in time.<br/>20 Q. Are they doing that currently?<br/>21 A. I don't know the answer to that.<br/>22 Q. Were they doing that on paid or unpaid time?<br/>23 A. Paid.</p> |
| <p>155</p> <p>1 employees. Are any of them not subject to<br/>2 rotation?<br/>3 A. I don't know the answer to that.<br/>4 Q. Why do you rotate employees?<br/>5 A. Repetitive motion.<br/>6 Q. Is that a physical injury type thing?<br/>7 A. Yes.<br/>8 Q. What part of the body does it affect?<br/>9 A. Could be wrists, hands, arms.<br/>10 Q. How often do you rotate employees?<br/>11 A. I don't know the answer to that.<br/>12 Q. Are employees subject to rotation on a daily<br/>13 basis?<br/>14 A. I don't know the answer to that. People<br/>15 under me does the rotation; I don't. I don't get<br/>16 involved in that.<br/>17 Q. Do you know of any documents that speak to<br/>18 the issue of rotation?<br/>19 A. I don't.<br/>20 Q. How long have you been rotating employees?<br/>21 A. I don't know the time frame.<br/>22 Q. Are there documents that would show on a<br/>23 particular day what a given employee would be</p> | <p>157</p> <p>1 Q. What part of the day were those exercises<br/>2 being done?<br/>3 A. In the mornings, normally after they got on<br/>4 their line.<br/>5 Q. And how long would they do the physical<br/>6 exercises?<br/>7 A. I don't know the answer to that.<br/>8 Q. I think I asked you this, but I want to make<br/>9 sure: Do you know which departments did the<br/>10 physical exercises?<br/>11 A. The best of my knowledge, debone was the<br/>12 only department doing that.<br/>13 Q. And was it the whole department?<br/>14 A. I don't know the answer to that.<br/>15 Q. Did the company consider doing physical<br/>16 exercises to be work?<br/>17 A. Yes. They was on the clock. It was after<br/>18 the line was started, after they got on the line.<br/>19 Q. Are all activities that employees are paid<br/>20 for considered work?<br/>21 A. Yes.<br/>22 Q. Now, you said you started with the company<br/>23 September '99, correct?</p>   |



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| <p>1 A. I believe that's correct.</p> <p>2 MR. ROSENTHAL: He said started with</p> <p>3 CP.</p> <p>4 Q. CP in September of '99. And were you</p> <p>5 involved in the collective bargaining negotiations</p> <p>6 while you were with CP?</p> <p>7 A. No.</p> <p>8 Q. And the contract that CP had ran from 2000</p> <p>9 to 2004; is that correct? Or do you know?</p> <p>10 A. I don't know.</p> <p>11 Q. How many employees are paid on a piece</p> <p>12 basis?</p> <p>13 A. None.</p> <p>14 Q. When did that cease?</p> <p>15 A. I don't recall the date.</p> <p>16 Q. How many, when you were paying employees on</p> <p>17 a piece basis, did you have that you were doing</p> <p>18 that?</p> <p>19 A. I don't remember the number of employees.</p> <p>20 Q. Which employees were paid on a piece basis?</p> <p>21 A. Tender sizing and thigh sizing.</p> <p>22 Q. How are they paid now?</p> <p>23 A. That department no longer exists.</p>   | <p>1 A. Tell me what you're talking about.</p> <p>2 Q. Were you involved in making any of the</p> <p>3 decisions that went into the transition of</p> <p>4 ownership from CP to Equity Group?</p> <p>5 A. No.</p> <p>6 Q. Were you involved in any of the decisions or</p> <p>7 considerations that went into whether or not</p> <p>8 Equity Group would follow the customs or practices</p> <p>9 of CP?</p> <p>10 A. No.</p> <p>11 Q. Do you have any knowledge on that subject?</p> <p>12 A. No.</p> <p>13 Q. Have you ever had any conversations with</p> <p>14 Jacqueline Davis about donning and doffing?</p> <p>15 A. She was in the negotiations.</p> <p>16 Q. Do you remember anything she said?</p> <p>17 A. No, not her personally.</p> <p>18 Q. Have you ever heard Jacqueline Davis say</p> <p>19 anything that touched on the subject of donning</p> <p>20 and doffing or pay for donning and doffing?</p> <p>21 A. No. I read her depositions where --</p> <p>22 Q. When did you do that?</p> <p>23 A. When this come up, I read everything about</p>   |
| 159   | 161   |
| <p>1 Q. Now, you said earlier you didn't know if you</p> <p>2 had any setup employees?</p> <p>3 A. Correct.</p> <p>4 Q. Do you have any personal knowledge about the</p> <p>5 collective bargaining agreement while CP ran the</p> <p>6 plant?</p> <p>7 A. No, other than the handbook that we had to</p> <p>8 go by. I don't recall what was in the union</p> <p>9 handbook. I was not part of the negotiations.</p> <p>10 Q. You're calling the handbook the contract?</p> <p>11 A. I meant the contract. Sorry.</p> <p>12 Q. Do you know who negotiated on behalf of the</p> <p>13 union when CP ran the plant and the collective</p> <p>14 bargaining was being negotiated?</p> <p>15 A. No, I don't.</p> <p>16 Q. Do you know of any differences in the way CP</p> <p>17 paid employees and the way Equity Group pays</p> <p>18 employees?</p> <p>19 A. No, I don't. The same system we had then</p> <p>20 carried through all contracts.</p> <p>21 Q. Were you involved in any of the decision</p> <p>22 making that led Equity Group to take over the</p> <p>23 plant from CP?</p> | <p>1 donning and doffing that I knew. And I knew that</p> <p>2 she had filed a case against us, so I read her,</p> <p>3 you know -- we reviewed her documents.</p> <p>4 Q. "We" being who?</p> <p>5 A. Myself, Kathy Gilmore.</p> <p>6 Q. All right. So did you read her deposition</p> <p>7 in this case or some other case?</p> <p>8 A. I read one she made in another case.</p> <p>9 Q. And that's when CP owned the plant?</p> <p>10 A. I don't remember who owned it at the time.</p> <p>11 Q. Do you remember anything you learned?</p> <p>12 A. There's some in my affidavit there about</p> <p>13 what was in there about the Jackie Davis case</p> <p>14 about the donning and doffing.</p> <p>15 Q. Yeah. But I'm talking now about what you</p> <p>16 learned when you read the deposition.</p> <p>17 A. I learned that the judge didn't grant her</p> <p>18 any donning and doffing pay.</p> <p>19 Q. Okay. Anything else?</p> <p>20 A. No. That was the main concern.</p> <p>21 Q. Do you know what Jacqueline Davis understood</p> <p>22 or said she understood about whether she could</p> <p>23 expect to be paid for donning and doffing</p> |



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| 162  | 164   |
| 1 activities while CP ran the plant?                 | 1 What is that?                                       |
| 2 A. She wasn't expecting to be paid for it, as      | 2 A. I don't remember. I haven't seen a               |
| 3 far as I know.                                     | 3 grievance in years.                                 |
| 4 Q. But have you ever heard her express her         | 4 Q. How many?  |
| 5 understanding?                                     | 5 A. I don't recall.                                  |
| 6 A. No, I have not.                                 | 6 Q. All right. So you don't have any knowledge       |
| 7 Q. Have you ever read anything in which she        | 7 about grievances until they reach your level,       |
| 8 expressed her understanding?                       | 8 correct.  |
| 9 A. I don't recall.                                 | 9 A. Correct.   |
| 10 Q. Have you ever read or heard anything that      | 10 Q. Let's see if we can figure out what your        |
| 11 indicated what Jacqueline Davis understood about  | 11 level is. Look in this union contract. Can you     |
| 12 whether it's a well-known practice for CP to pay  | 12 find where it defines your level?                  |
| 13 only for time worked at the workstation?          | 13 A. Actually, I'm not even on here. But I know      |
| 14 A. From what I read, that's what she understood   | 14 about them if it goes to the plant manager level.  |
| 15 she got paid. That it was understood that she got | 15 We have a grievance if it gets to the step two.    |
| 16 paid for time worked at the workstation.          | 16 If it gets to the plant manager, I'm made aware of |
| 17 Q. But you never heard her say that?              | 17 it.  |
| 18 A. I never heard her say that.                    | 18 Q. Okay.   |
| 19 Q. Do you know why CP decided to sell the         | 19 A. If we ever have one.                            |
| 20 plant?  | 20 Q. But you have no knowledge of any grievances     |
| 21 A. I've heard rumors.                             | 21 that only went to the step one?                    |
| 22 Q. What did you hear?                             | 22 A. No.   |
| 23 A. Nonprofit organization.                        | 23 Q. Who was the chief negotiator for the company    |
| 163  | 165   |
| 1 Q. Wasn't make any money?                          | 1 in the collective bargaining in 2008?               |
| 2 A. No money.                                       | 2 A. Howard Rosenthal.                                |
| 3 MR. ROSENTHAL: It was a profit-making              | 3 Q. All right. And who was the chief negotiator      |
| 4 organization that was not making profit.           | 4 for the company in the collective bargaining in     |
| 5 MR. WIGGINS: Right.                                | 5 2004?   |
| 6 Q. Have you ever heard Jacqueline Davis say        | 6 A. Howard.  |
| 7 anything to Jenkins or Foster?                     | 7 Q. Okay. Were there any other attorneys             |
| 8 MR. ROSENTHAL: Anything at all?                    | 8 involved in either of the collective bargaining     |
| 9 Q. About donning and doffing.                      | 9 years that went on, 2004 and 2008?                  |
| 10 A. Not that I recall, but I'm sure she did in     | 10 A. Not that I'm aware of.                          |
| 11 the contract negotiations.                        | 11 Q. Now I may be assuming too much. Has the         |
| 12 Q. Now, Jenkins and Foster were the union         | 12 collective bargaining agreement ever been          |
| 13 representatives, correct?                         | 13 negotiated, to your knowledge, except in 2004 and  |
| 14 A. Correct.                                       | 14 2008?  |
| 15 Q. But did you ever hear Davis say anything to    | 15 A. Not to my knowledge, no.                        |
| 16 Jenkins or Foster about donning and doffing; and  | 16 Q. You haven't had any midterm or interim          |
| 17 if so, what did you hear?                         | 17 negotiations?                                      |
| 18 A. I don't recall.                                | 18 A. No, not to my knowledge.                        |
| 19 Q. Do you handle grievances, union grievances?    | 19 Q. Who was the chief negotiator for the union      |
| 20 A. If they come up to my level.                   | 20 in 2004?   |
| 21 Q. What's your level?                             | 21 A. I would guess Henry Jenkins.                    |
| 22 A. Operations manager.                            | 22 Q. What about 2008?                                |
| 23 Q. Is that the fourth level? third? second?       | 23 A. Same.   |

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| <p style="text-align: right;">166</p> <p>1 Q. I'm showing you the new exhibit you gave me<br/>2 this morning, Exhibit 17, called "Good<br/>3 Manufacturing Practices." Look at page 3. Who is<br/>4 Jretha Diggs?<br/>5 A. She was a QA supervisor, I believe.<br/>6 Q. Is she still with the company?<br/>7 A. No.<br/>8 Q. Do you know where she is now?<br/>9 A. No.<br/>10 Q. Do you know if she's in the Eufaula area?<br/>11 A. I don't have a clue.<br/>12 Q. And why did she leave the company?<br/>13 A. I don't know the answer to that.<br/>14 Q. Is she the same person as Jretha Thompson?<br/>15 A. Yes.<br/>16 Q. And it looks like she was still with the<br/>17 company as of August 18, 2007, according to this<br/>18 page, correct?<br/>19 A. Correct.<br/>20 Q. Who replaced her?<br/>21 A. I don't know the answer to that.<br/>22 Q. And what was her title?<br/>23 A. QA supervisor, I believe.</p>  | <p style="text-align: right;">168</p> <p>1 A. No. But I'm not that familiar with the QA.<br/>2 They don't report to me.<br/>3 Q. When it uses the words "team members," what<br/>4 does that mean?<br/>5 A. Everybody, I would guess. I don't know.<br/>6 Q. That would include you?<br/>7 A. Every team member. I don't know what the<br/>8 definition of it is in this sentence.<br/>9 Q. But you don't divide employees into teams?<br/>10 A. No.<br/>11 Q. How many first line supervisors do you have<br/>12 in debone?<br/>13 A. I don't remember off the top of my head.<br/>14 It's in the flowchart or organizational chart.<br/>15 Q. Okay. Now, look at the "Grounds" section,<br/>16 page 4. Do you see that section?<br/>17 A. Yes.<br/>18 Q. Has that always been the practice since<br/>19 March of 2004?<br/>20 A. Yes.<br/>21 Q. And the purpose of that part of the GMP is<br/>22 to prevent contamination of the poultry products?<br/>23 A. Not the grounds. Grounds is to protect</p>  |
| <p style="text-align: right;">167</p> <p>1 Q. And how long did she hold that job?<br/>2 A. I don't know the answer to that.<br/>3 Q. Was she with CP?<br/>4 A. I don't know the answer to that.<br/>5 Q. Look at page 4, under the title "Purpose."<br/>6 It says, "The following GMP's were established to<br/>7 minimize the introduction of bacteria,<br/>8 contaminants, or foreign material into our<br/>9 manufacturing environment and must be adhered to<br/>10 by all team members and visitors while in<br/>11 production areas including coolers, shipping, and<br/>12 receiving docks."<br/>13 Do you know of any other purpose for these<br/>14 practices that are then listed in the policy?<br/>15 A. Not as I'm aware of.<br/>16 Q. Under "Responsibility" it says, "The Quality<br/>17 Assurance Department primarily administers this<br/>18 program."<br/>19 How do they do that?<br/>20 A. I don't know.<br/>21 Q. Do you know of any recordkeeping they do in<br/>22 terms of checking employees' donning, doffing, or<br/>23 sanitizing practices?</p> | <p style="text-align: right;">169</p> <p>1 against insects. Pest control. That sort of<br/>2 stuff that could lead into the plant: rats<br/>3 rodents, so forth, on the grounds. Grounds is<br/>4 outside perimeter, not the plant.<br/>5 Q. All right. Let's go to the next page to the<br/>6 "Plant Construction and Design" section.<br/>7 It says, "Plant buildings and structure<br/>8 shall be suitable in size, construction and design<br/>9 to facilitate maintenance and sanitary operations<br/>10 for food - manufacturing purposes." Correct?<br/>11 A. Yes.<br/>12 Q. Now, have you always followed these<br/>13 practices listed under "Plant Construction and<br/>14 Design" at the two plants here in Eufaula, since<br/>15 March of 2004?<br/>16 A. To the best of my knowledge.<br/>17 Q. And then under "General Requirements," do<br/>18 you see any part of the general requirements that<br/>19 have not always been required of employees since<br/>20 March of 2004?<br/>21 (The witness examines the<br/>22 document.)<br/>23 A. I don't know if this goes all the way back</p> |

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| <p style="text-align: right;">170</p> <p>1 to 2004; but to the best of my knowledge after</p> <p>2 briefly reading through it, these are the rules</p> <p>3 that we follow today.</p> <p>4 Q. And sitting here watching you, you read</p> <p>5 through all 41 items; is that right?</p> <p>6 A. I scanned through it. I didn't read every</p> <p>7 one of them word for word.</p> <p>8 Q. All right. Let's look at No. 2. It says,</p> <p>9 "All team members and visitors must wash and</p> <p>10 sanitize hands before starting work..."</p> <p>11 That's always been a requirement, correct?</p> <p>12 A. Best of my knowledge.</p> <p>13 Q. And then it says, "All team members must</p> <p>14 wash and sanitize hands after each absence from</p> <p>15 the work area..." correct?</p> <p>16 A. Yes.</p> <p>17 Q. And that's always been a requirement,</p> <p>18 correct?</p> <p>19 A. Best of my knowledge.</p> <p>20 Q. And what will cause absences from the work</p> <p>21 area?</p> <p>22 A. If you leave and go to the break room, or</p> <p>23 you go to the nurse's station, or you go to HR,</p> | <p style="text-align: right;">172</p> <p>1 That's been required since at least March of</p> <p>2 2004, correct?</p> <p>3 A. No.</p> <p>4 Q. When did that first start?</p> <p>5 A. I don't know.</p> <p>6 Q. The next sentence of Rule 6 under General</p> <p>7 Requirements says, "Smocks are to be changed</p> <p>8 during the shift if needed."</p> <p>9 Has that always been a rule?</p> <p>10 A. Yes.</p> <p>11 Q. And when will a change in smocks be needed?</p> <p>12 A. Only if they get contaminated.</p> <p>13 Q. And what would contaminate a smock?</p> <p>14 A. Wet, bloody, for example.</p> <p>15 Q. Are there any jobs in which employees never</p> <p>16 get wet, bloody, or contaminated?</p> <p>17 A. Yes.</p> <p>18 Q. Which ones?</p> <p>19 A. QA, for example. I don't know all the jobs</p> <p>20 and what does and don't get contaminated or</p> <p>21 bloody.</p> <p>22 Q. Okay. The next sentence of Rule 6 of</p> <p>23 General Requirements says, "Smocks must fasten or</p>  |
| <p style="text-align: right;">171</p> <p>1 QA, anywhere you go.</p> <p>2 Q. Restroom?</p> <p>3 A. Restroom, which it states up here.</p> <p>4 Q. And the reason for that rule No. 2 that you</p> <p>5 must wash and sanitize hands after each absence</p> <p>6 from the work area and before starting work is to</p> <p>7 protect the poultry products from contamination,</p> <p>8 correct?</p> <p>9 A. Yes. You're handling food.</p> <p>10 Q. And that's the reason for the rule; is that</p> <p>11 right?</p> <p>12 A. Correct.</p> <p>13 Q. Now, No. 4 says, "A solid (non-mesh) hair</p> <p>14 net must be worn to contain the hair as completely</p> <p>15 as possible."</p> <p>16 That's always been the rule that employees</p> <p>17 are required to follow?</p> <p>18 A. Not always, but it has been for the last</p> <p>19 period of time. I don't know how long.</p> <p>20 Q. Since March of 2004 at least?</p> <p>21 A. I would think, but I don't know that.</p> <p>22 Q. And No. 6 says, "A clean smock must be</p> <p>23 obtained daily."</p>  | <p style="text-align: right;">173</p> <p>1 tie properly to cover street clothes. Smocks may</p> <p>2 not have sewn on buttons or an external upper</p> <p>3 pocket."</p> <p>4 Has that always been true since March of</p> <p>5 2004?</p> <p>6 A. I can't answer that since March of 2004.</p> <p>7 Q. Why do you have a rule that the smocks must</p> <p>8 fasten or tie properly to cover street clothes?</p> <p>9 A. To cover street clothes.</p> <p>10 Q. Is that to protect the poultry from</p> <p>11 contamination by street clothes?</p> <p>12 A. Yes. And to protect the clothing of the</p> <p>13 employee.</p> <p>14 Q. All right. "Smocks may not have sewn on</p> <p>15 buttons."</p> <p>16 What purpose does that serve?</p> <p>17 A. You don't want a button getting in your</p> <p>18 product.</p> <p>19 Q. And can't have an external upper pocket.</p> <p>20 What purpose does that serve?</p> <p>21 A. You don't want nothing in your pocket to</p> <p>22 fall over in your product.</p> <p>23 Q. It would contaminate the product?</p> |

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1 A. Yes.  
2 Q. And then Rule 7 of General Requirements  
3 says, "Smocks, hair nets, and beard nets must be  
4 removed before exiting the facility."  
5 And I believe you've already said that's  
6 always been the rule?  
7 A. Yes. Can't wear them outside.  
8 Q. Why?  
9 A. Contamination.  
10 Q. Of the poultry product?  
11 A. Yes. Of the smock that's going back to the  
12 poultry product.  
13 Q. Okay. Then Rule 8 says, "Keep hands and  
14 fingernails clean. Keep fingernails properly  
15 trimmed, and if fingernail polish or false  
16 fingernails are worn, gloves must cover hands  
17 while in any production area, including box rooms,  
18 shipping/receiving, dry storage, product storage."  
19 Has that always been the requirement that  
20 employees are required to follow?  
21 A. I don't know about always. It is today.  
22 Q. Do you know if that's been since March of  
23 2004?

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1 A. No, I don't. I don't recall that far back.  
2 Q. Rule 10 of the General Requirements says,  
3 "Clothing must be clean at the start of operation  
4 and kept reasonably clean during operations."  
5 Which clothing is that talking about?  
6 A. Smock.  
7 Q. Is it talking about the street clothes too?  
8 A. No.  
9 Q. Well, are you just repeating yourself in No.  
10 10 from what you said in No. 6 about smocks?  
11 A. Looks that way.  
12 Q. Did you author these rules? Did you have  
13 any role in the authorship of these rules?  
14 A. No.  
15 Q. Rule 11 of the General Requirements says,  
16 "Plastic sleeve covers will be worn to cover any  
17 street clothes that extend beyond smock coverage  
18 on the arms when handling product."  
19 Is the purpose of that to prevent  
20 contamination of the chicken product?  
21 A. And to cover your street clothes.  
22 Q. To prevent contamination?  
23 A. And to keep your street clothes from getting

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1 messed up.  
2 Q. And the company furnishes the plastic  
3 sleeves to the employees?  
4 A. Yes, according to the union contract.  
5 Q. Do you know how often?  
6 A. No. It's in the contract.  
7 Q. I believe that's the rule that you said part  
8 of it you no longer follow, like the three smocks.  
9 MR. ROSENTHAL: Objection to the form  
10 of the question.  
11 Q. When you say it's in the contract, are you  
12 speaking of Section 13.4, page 21, of the  
13 2004-2008 contract?  
14 A. See right there, sleeves?  
15 Q. Right. But that's what you were referring  
16 to is that 13.4 Section, correct?  
17 A. Referring to as this being in the contract?  
18 Q. In your last answer you said it was in the  
19 contract. Is that what you were referring to?  
20 A. Yes. You said the company supplied them;  
21 that's what I'm referring to.  
22 Q. Okay. Rule 12 of the General Requirements  
23 in Exhibit 17 says, "Maintain gloves used for

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1 handling food and food contact packaging supplies  
2 intact and in a sanitary condition."  
3 The purpose of that is to protect the  
4 chicken from contamination, correct?  
5 A. Yes, and to cover your hands.  
6 Q. To cover your hands so your hands can't  
7 touch the chicken, right?  
8 A. Or the chicken can't touch your hand, yeah.  
9 Q. Rule 13 says, "Gum, candy, cough drops, and  
10 tobacco products are not permitted in any  
11 production area."  
12 Has that been a rule since at least March of  
13 2004?  
14 A. Best of my knowledge.  
15 Q. Rule 14: "Maintain lockers clean and free  
16 of trash or soiled clothing."  
17 Has that always been a rule?  
18 A. Yes, best of my knowledge.  
19 Q. Rule 15 says, "No food or beverages are  
20 allowed in production areas and placing food in  
21 lockers is highly discouraged unless there is no  
22 other alternative and it must be properly sealed  
23 and removed daily."

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| <p style="text-align: right;">178</p> <p>1 What's the purpose of that rule?</p> <p>2 A. Pests.</p> <p>3 Q. To keep down pests that would cause poultry</p> <p>4 contamination?</p> <p>5 A. Yeah. You don't want food or beverage in</p> <p>6 your production area.</p> <p>7 Q. Because it might lead to the contamination</p> <p>8 of the poultry?</p> <p>9 A. And it's a USDA requirement.</p> <p>10 Q. And the USDA requirement is put there in</p> <p>11 order to protect poultry from contamination?</p> <p>12 A. I would think so, yes.</p> <p>13 Q. And then Rule 16 says, "Don't use hands or</p> <p>14 equipment for practices which may result in</p> <p>15 contamination of food products. Such practices</p> <p>16 include but are not limited to: touching face,</p> <p>17 wiping forehead; scratching head or body; placing</p> <p>18 fingers on/or in mouth, nose, or ears."</p> <p>19 Has that always been a rule?</p> <p>20 A. I can't answer that. I don't know. It is</p> <p>21 today.</p> <p>22 Q. But the purpose of that rule is stated on</p> <p>23 its face, correct, that it might result in</p>                         | <p style="text-align: right;">180</p> <p>1 equipment to be kept free from contamination,</p> <p>2 including the earplugs, is to prevent</p> <p>3 contamination of the poultry products, correct?</p> <p>4 A. Contamination of the earplugs could</p> <p>5 contaminate a human's ears. You want to clean</p> <p>6 them before you put them in your ears, I would</p> <p>7 think.</p> <p>8 Q. For example, it says, "Any item that becomes</p> <p>9 contaminated must be washed and sanitized..." And</p> <p>10 it gives examples like pens, calculators,</p> <p>11 thermometers, clipboards, pans, etc.</p> <p>12 You pay employees for that sanitation,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. That's considered work?</p> <p>16 A. Yes.</p> <p>17 Q. Now, Rule 25 says, "Only approved footwear</p> <p>18 shall be worn in the processing area to include</p> <p>19 coolers, shipping, and receiving docks."</p> <p>20 Is there any footwear approved other than</p> <p>21 that which the company distributes to the</p> <p>22 employees?</p> <p>23 A. Yes.</p>                      |
| <p style="text-align: right;">179</p> <p>1 contamination of food products?</p> <p>2 A. Yes.</p> <p>3 Q. And then Rule 17 says, "Avoid uncontrolled,</p> <p>4 uncovered coughing or sneezing. Sanitize hands</p> <p>5 afterwards."</p> <p>6 Has that always been a rule?</p> <p>7 A. I don't know the answer to that.</p> <p>8 Q. Now, the purpose of that rule is to protect</p> <p>9 the poultry from contamination, correct?</p> <p>10 A. To keep from sneezing over the food that</p> <p>11 somebody is going to eat.</p> <p>12 Q. Rule 24 says, "Any item that becomes</p> <p>13 contaminated must be washed and sanitized before</p> <p>14 being placed back into use. Processing tools and</p> <p>15 utensils are, but not limited to the following</p> <p>16 items: pens, calculators, thermometers,</p> <p>17 clipboards, pans, edible totes, edible shovels,</p> <p>18 earplugs, maintenance tools, etc."</p> <p>19 Has that always been the rule since at least</p> <p>20 March of 2004?</p> <p>21 A. I can't answer that since March of 2004.</p> <p>22 It's a rule today.</p> <p>23 Q. And the reason for requiring that type of</p> | <p style="text-align: right;">181</p> <p>1 Q. The company does provide boots to employees,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. Free of charge?</p> <p>5 A. Yes.</p> <p>6 Q. And why does it do that?</p> <p>7 A. Because it's required to wear washable</p> <p>8 footwear, so we supply boots.</p> <p>9 Q. And is that to prevent contamination of the</p> <p>10 poultry processing areas?</p> <p>11 A. It's a requirement by the USDA.</p> <p>12 Q. And the purpose of their requirement is to</p> <p>13 prevent contamination of the poultry processing?</p> <p>14 A. I guess. But as it states here, you can</p> <p>15 also wear shoe covers.</p> <p>16 Q. Does the company furnish the shoe covers?</p> <p>17 A. We have them available. They're not in the</p> <p>18 contract, but they can buy them if they would</p> <p>19 rather have the shoe covers than the rubber boots.</p> <p>20 Q. Well, the company pays for the rubber boots.</p> <p>21 Does it pay for the shoe covers?</p> <p>22 A. Not as I'm aware of.</p> <p>23 Q. Do most employees wear the rubber boots?</p> |



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| <p style="text-align: right;">182</p> <p>1 A. Yes.</p> <p>2 Q. It says, "Rubber boots are available at the</p> <p>3 Supply and may be cut down..."</p> <p>4 What does that mean, "cut down"?</p> <p>5 A. If you don't like them coming all the way up</p> <p>6 to your knees, you can cut them off. A lot of</p> <p>7 employees do that.</p> <p>8 Q. These are boots that come all the way to</p> <p>9 your knee if you don't cut them down?</p> <p>10 A. Yes.</p> <p>11 Q. Then it goes on to say, "...but cannot be</p> <p>12 left where they are hanging loose or flapping</p> <p>13 over. Do not cut below the ankle."</p> <p>14 Has that always been a rule?</p> <p>15 A. I can't answer that. It's a practice we</p> <p>16 have today.</p> <p>17 Q. What's the purpose of that rule about not</p> <p>18 cutting your boots or letting them flap?</p> <p>19 A. Safety. Safety for the employee.</p> <p>20 Q. And does it also have to do with sanitation?</p> <p>21 A. No. It's for the safety of the employee.</p> <p>22 Q. Are the rubber boots provided for sanitary</p> <p>23 purposes?</p>   | <p style="text-align: right;">184</p> <p>1 A. Yes.</p> <p>2 Q. Rule 35 talks about work stands, ergo</p> <p>3 stands. What are those?</p> <p>4 A. The stands they get up on to make their job</p> <p>5 more ergonomically correct.</p> <p>6 Q. Where are they provided at?</p> <p>7 A. On the lines where the employees work.</p> <p>8 Q. Turn to page 11 of Exhibit 17.</p> <p>9 A. (Witness complies.)</p> <p>10 Q. Under "Sanitation Related" for "Slaughter,</p> <p>11 Deboning, and Further Processing," Rule 2 says,</p> <p>12 "Follow cleaning procedures as outlined in Company</p> <p>13 Sanitation Master manual."</p> <p>14 I haven't seen that master manual. Are you</p> <p>15 familiar with what it is?</p> <p>16 A. I know what it is; I don't know what's in</p> <p>17 it.</p> <p>18 Q. Have you ever read it?</p> <p>19 A. No.</p> <p>20 Q. You don't use it at all?</p> <p>21 A. I don't.</p> <p>22 Q. Does the Company Sanitation Master manual</p> <p>23 have anything in it related to donning, doffing,</p>                    |
| <p style="text-align: right;">183</p> <p>1 A. They're provided because it's a USDA</p> <p>2 regulation.</p> <p>3 Q. There's nothing in the union contract about</p> <p>4 boots?</p> <p>5 A. Yes, it's in the union contract.</p> <p>6 Q. What does the union contract say about</p> <p>7 boots?</p> <p>8 A. I don't recall. We do furnish them.</p> <p>9 Q. Rule 34 says, "Only approved tools may be</p> <p>10 used... Examples of non-approved tools:</p> <p>11 pocketknives, fingernail clippers, etc. or any</p> <p>12 tool with a wooden handle."</p> <p>13 What's the purpose of that rule?</p> <p>14 A. Because the tools have to be cleanable,</p> <p>15 sanitizable, and we furnish the tools. We don't</p> <p>16 want the employees to have to furnish tools. We</p> <p>17 furnish tools for the employees.</p> <p>18 Q. And that's so you can make sure you keep the</p> <p>19 poultry processing area in a sanitary condition?</p> <p>20 A. So the tools meet the USDA requirements.</p> <p>21 Q. And the requirements of USDA are to ensure</p> <p>22 the sanitary production of uncontaminated chicken</p> <p>23 products?</p> | <p style="text-align: right;">185</p> <p>1 or sanitizing protective equipment?</p> <p>2 A. I don't know that. I've never read it.</p> <p>3 MR. WIGGINS: Howard, we'd like to have</p> <p>4 that sanitation master manual.</p> <p>5 MR. ROSENTHAL: We'll consider your</p> <p>6 request.</p> <p>7 Q. Now, page 13 of this Exhibit 17 closes by</p> <p>8 saying, "The above GMP's will be strictly</p> <p>9 enforced."</p> <p>10 Has that always been the case?</p> <p>11 A. No. We have not strictly enforced them,</p> <p>12 unfortunately. They have things that went by that</p> <p>13 we didn't take action on. But to the best of our</p> <p>14 ability, we strictly enforce them.</p> <p>15 Q. Have you ever been written up by USDA?</p> <p>16 A. Have I?</p> <p>17 Q. Or cited or anything like that?</p> <p>18 A. The company has, yes.</p> <p>19 Q. Have you ever been written up or cited about</p> <p>20 donning and doffing?</p> <p>21 A. No.</p> <p>22 Q. What about sanitizing protective equipment?</p> <p>23 A. Not as I recall.</p> |

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| <p style="text-align: right;">186</p> <p>1 Q. Have you been written up about contaminated</p> <p>2 poultry products?</p> <p>3 A. Yes.</p> <p>4 Q. How many times?</p> <p>5 A. I don't know the answer to that.</p> <p>6 Q. What was the cause of the contamination?</p> <p>7 A. Different ones. I don't recall all of it.</p> <p>8 Q. What does USDA call that type of write-up?</p> <p>9 A. NR.</p> <p>10 Q. And who's in charge of NRs?</p> <p>11 A. USDA.</p> <p>12 Q. What does NR mean?</p> <p>13 A. Noncompliance report.</p> <p>14 Q. Who's in charge at the company of NRs?</p> <p>15 A. Nobody at the company's in charge of it.</p> <p>16 USDA's in charge of it. They write them and issue</p> <p>17 them.</p> <p>18 Q. Okay. But who's responsible for responding</p> <p>19 to the problem?</p> <p>20 A. It's according to who gets the NR.</p> <p>21 Q. I mean, is that a first class supervisor job</p> <p>22 or -</p> <p>23 A. It entails the first line supervisor all the</p>  | <p style="text-align: right;">188</p> <p>1 donning and doffing?</p> <p>2 A. I haven't.</p> <p>3 Q. Has the company?</p> <p>4 A. I don't know the answer to that.</p> <p>5 Q. What about for improper sanitizing</p> <p>6 protective gear or equipment?</p> <p>7 A. I don't know the answer to that.</p> <p>8 Q. But employees are subject to discipline and</p> <p>9 discharge for improper donning and doffing or</p> <p>10 sanitizing, correct?</p> <p>11 A. Yes, subject to it.</p> <p>12 Q. Do you remember any NRs that you received</p> <p>13 about contaminated poultry products?</p> <p>14 A. I don't remember. I'm sure we have had</p> <p>15 some, but I don't remember.</p> <p>16 Q. What are your duties and responsibilities as</p> <p>17 complex operations manager?</p> <p>18 A. My duties and responsibilities are that both</p> <p>19 plant managers report to me. And I deal with, as</p> <p>20 the organizational chart states, the plant</p> <p>21 managers, the maintenance complex manager, and the</p> <p>22 sanitation managers on third shift. They report</p> <p>23 to me. I'm also over the projects which falls up</p> |
| <p style="text-align: right;">187</p> <p>1 way up to the plant manager.</p> <p>2 Q. Does it involve quality assurance?</p> <p>3 A. Yes.</p> <p>4 Q. Safety department?</p> <p>5 A. It's according to what the NR was written</p> <p>6 on.</p> <p>7 Q. Okay. And how long do you keep your NRs?</p> <p>8 A. I don't recall. They have to be kept on</p> <p>9 site. I don't know.</p> <p>10 Q. Who's the recordkeeper for the NRs for the</p> <p>11 company?</p> <p>12 A. Probably QA. I don't know the answer to</p> <p>13 that.</p> <p>14 Q. Are they kept electronically?</p> <p>15 A. No, not as I'm aware of. I don't know.</p> <p>16 Q. And then the next sentence in the closing</p> <p>17 paragraph of Exhibit 17, after listing all those</p> <p>18 rules we went over, says, "Anyone failing to</p> <p>19 comply with these procedures will be subject to</p> <p>20 being corrected immediately, possible disciplinary</p> <p>21 action up to and including termination." Correct?</p> <p>22 A. Yes.</p> <p>23 Q. Have you disciplined employees for improper</p> | <p style="text-align: right;">189</p> <p>1 under the maintenance umbrella.</p> <p>2 Q. The company has a sanitation department,</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And you said it comes in under third shift?</p> <p>6 A. Yes.</p> <p>7 Q. Do they have any employees on the first or</p> <p>8 second shift?</p> <p>9 A. No.</p> <p>10 Q. Describe what the company does to sanitize</p> <p>11 the production area on the third shift.</p> <p>12 A. They clean the production area.</p> <p>13 Q. How do they go about doing that?</p> <p>14 A. Wash it, scrub it, foam it, rinse it, and</p> <p>15 then spray it down with sanitizer.</p> <p>16 Q. And does the USDA inspect it?</p> <p>17 A. Yes.</p> <p>18 Q. Does the USDA have to release it before you</p> <p>19 can start up production?</p> <p>20 A. Yes.</p> <p>21 Q. Is that in writing?</p> <p>22 A. It's a USDA regulation.</p> <p>23 Q. I mean, the release every day. Is that</p>  |



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| <p>1 recorded in some way as the time of day that you<br/>2 were released?<br/>3 A. We know our down time. If we're not<br/>4 released by our normal start-up time, we know our<br/>5 down time.<br/>6 Q. What records show your down time?<br/>7 A. Production records.<br/>8 Q. And employees get paid for that type of<br/>9 sanitation activity?<br/>10 A. Which employees are you talking about.<br/>11 Q. Your sanitation department. Employees are<br/>12 paid to sanitize the company's equipment?<br/>13 A. Yes.<br/>14 Q. You also sanitize on lunch breaks, meal<br/>15 breaks?<br/>16 A. No.<br/>17 Q. I thought y'all, during break periods,<br/>18 you're setup or your floor persons have to<br/>19 resanitize.<br/>20 A. No.<br/>21 Q. That's never been the case?<br/>22 A. Not sanitize, no.<br/>23 Q. Do they do anything during the break, while</p>   | <p>1 knives and arm guards, correct?<br/>2 A. Yes.<br/>3 Q. And they're paid for that, correct?<br/>4 A. Yes.<br/>5 Q. And that's considered work?<br/>6 A. Correct.<br/>7 Q. If any employee is scheduled to be at work,<br/>8 arrives at work, there's no work for him, he has<br/>9 to wait, is he paid?<br/>10 A. Yes.<br/>11 Q. Is there a rule on that?<br/>12 A. They're paid at their normal start time or<br/>13 their master card time, which starts at a certain<br/>14 time every day and ends at a certain time.<br/>15 Q. And they're paid even though they're just<br/>16 sitting?<br/>17 A. Exactly.<br/>18 Q. Doing nothing?<br/>19 A. Correct.<br/>20 Q. That's still considered work that has got to<br/>21 be paid?<br/>22 A. Correct.<br/>23 Q. That's always been the case?</p>   |
| 191  | 193   |
| <p>1 the normal production line employees are gone on<br/>2 break?<br/>3 A. Some areas are rinsed down. But they don't<br/>4 sanitize.<br/>5 Q. Okay. What's the difference between rinsing<br/>6 down and sanitizing?<br/>7 A. Rinsing down and sanitizing.<br/>8 Q. Physically what's the difference? What are<br/>9 you doing differently?<br/>10 A. Taking a water hose and washing it down<br/>11 would be rinsing it down. If you're sanitizing,<br/>12 you would be spraying sanitizer on it.<br/>13 Q. What kind of sanitizer do you use?<br/>14 A. Chlorine, Clorox.<br/>15 Q. So you don't use any sanitizer except on the<br/>16 third shift, in terms of sanitizing the production<br/>17 area itself?<br/>18 A. Unless we have a breakdown and maintenance<br/>19 has to work on that piece of equipment. Then it<br/>20 has to be rinsed off and sanitized.<br/>21 Q. Who sanitizes knives or arm guards?<br/>22 A. I don't know the answer to that.<br/>23 Q. But somebody is in charge of sanitizing the</p> | <p>1 A. Yes.<br/>2 Q. So the company --<br/>3 MR. WIGGINS: Strike that.<br/>4 Q. Now, the sanitation department employees are<br/>5 paid eight hours even if they work less, correct?<br/>6 A. Correct.<br/>7 Q. What's the least amount of time you've known<br/>8 an employee to work and get paid for eight hours?<br/>9 A. I don't know exactly on times. I mean, I<br/>10 would guess five, six hours.<br/>11 Q. And is that typical that employees will<br/>12 spend five or six hours but get paid for eight?<br/>13 A. On sanitation, yes.<br/>14 Q. And their time after five or six hours,<br/>15 they're at home, correct? They've left the<br/>16 building?<br/>17 A. Not necessarily.<br/>18 Q. Well, employees are paid in the sanitation<br/>19 department even though they've left the premises?<br/>20 A. Correct.<br/>21 Q. Even though they may be home?<br/>22 A. Correct.<br/>23 Q. Even though they may be in the bed asleep?</p> |

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1 A. Correct.  
2 Q. They're still considered to be working on  
3 paid time?  
4 A. They're paid eight hours a day, unless they  
5 work over eight hours.  
6 Q. So the company does not require you to exert  
7 yourself in order to be considered working,  
8 correct?  
9 MR. ROSENTHAL: Objection to the form  
10 of the question. You can answer.  
11 A. I don't know the answer. I don't know what  
12 your question is.  
13 Q. Well, the company pays employees sometimes  
14 when they're sleeping, sometimes when they're  
15 sitting and doing nothing, correct?  
16 A. Correct.  
17 Q. Okay. Now, in your affidavit you said, in  
18 paragraph 16 -- Well, let's start at paragraph 14.  
19 You said, "These production employees are  
20 paid" -- Well, let's see which production  
21 employees you're talking about. Paragraph 11.  
22 Let me show you a copy of your affidavit.  
23 In paragraph 11 you're taking about employees in

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1 the production department of the fresh plant,  
2 evisceration and debone, are generally paid under  
3 a form of line time or master card time, correct?  
4 A. Correct.  
5 Q. And you then describe, in the next several  
6 paragraphs, various things about these employees  
7 that are subject to master card time or line time,  
8 correct?  
9 A. Yes.  
10 Q. And then paragraph 14, about them you say  
11 this: "These production employees are paid  
12 together with hours worked before the start of  
13 line time or after completion of line time on the  
14 basis of the master card system."  
15 Now, what type of activities are those that  
16 you are describing that are before the start of  
17 line time or after the completion of line time?  
18 A. I need to go back and read it all. But what  
19 it states here is if we have an employee to come  
20 in early to set up or we ask them to stay late,  
21 come in early or stay late, we pay them on the  
22 outside of the master card time. That time is  
23 adjusted by the supervisor to the actual time

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1 worked.  
2 Q. Based on their personal time card?  
3 A. Yes.  
4 Q. All right. Now --  
5 A. Anyone that's not falling within the window  
6 of the master card.  
7 Q. Right. Now, are there any jobs that that  
8 type of before-line-time and after-line-time  
9 activities is in regular part of their job?  
10 A. Yes. There's some people that's not on the  
11 master card system.  
12 Q. Even though they're subject to the  
13 collective bargaining agreement?  
14 A. Correct.  
15 Q. And I think I asked you this earlier, but I  
16 want to ask you one more time to make sure: Are  
17 you able to name those jobs?  
18 A. No, I'm not.  
19 Q. The only one you named earlier was the floor  
20 person.  
21 A. Correct. Setup people, floor person, could  
22 be the same.  
23 Q. Now, you earlier said you didn't know

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1 anything about setup persons, but are you now  
2 remembering?  
3 A. No. I said it could be floor person or  
4 setup person.  
5 Q. All right. Is that two different kinds of  
6 employees?  
7 A. I don't know. I said "or."  
8 Q. Okay. Do you know of any part of the  
9 production area that does not have floor persons  
10 or setup persons?  
11 A. No, I don't.  
12 Q. Do you know how many floor persons or setup  
13 persons you have?  
14 A. No.  
15 Q. Is that a job that's rotated?  
16 A. I can't answer that. I don't know.  
17 Q. Who would know that?  
18 A. Production supervisors.  
19 Q. Then the next paragraph, 15, refers to the  
20 master card being swiped at the end of the shift.  
21 Is there a master card swiped at the  
22 beginning of a shift?  
23 A. Yes.

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| <p>1 Q. Is the master card used --<br/>2 MR. WIGGINS: I'm sorry. Strike that.<br/>3 Q. Is the master card swipe used for pay<br/>4 purposes at the start of the day for any employee?<br/>5 A. For people that's on the master card, yes;<br/>6 for people that's on the master card time.<br/>7 Q. The reason I ask is your paragraph 15 says,<br/>8 "As employees are paid from the scheduled start<br/>9 time, employees are required to be at their<br/>10 workstations through the time when the master card<br/>11 is swiped at the end of the shift when the last<br/>12 bird to be processed passes the final<br/>13 workstation."<br/>14 Is that a true statement?<br/>15 A. Yes.<br/>16 Q. Has that always been true since March of<br/>17 2004?<br/>18 A. I can't answer that. Best of my knowledge,<br/>19 it has been.<br/>20 Q. Is there any document that describes a rule<br/>21 or requirement that the master card be swiped only<br/>22 after the last bird passes the final workstation?<br/>23 A. I don't know of a document. I'm not aware</p> | <p>1 swipe time?<br/>2 A. It's according to the situation.<br/>3 Q. How does it vary?<br/>4 A. Normal, 99 percent of the time you've got to<br/>5 walk on/walk off. They would be leaving. But if<br/>6 we only run one shift, which we haven't done in<br/>7 years, and they have to work until 4:35, they'll<br/>8 get paid until 4:35.<br/>9 Q. They won't get paid until their clock-out<br/>10 time person --<br/>11 A. No. They'll get paid by master card time,<br/>12 which you said 4:35.<br/>13 Q. Okay. Now, if the master card is swiped at<br/>14 4:25, what controls the pay?<br/>15 A. Going back to my answer, if we're only<br/>16 running one shift that day and they get through at<br/>17 4:25, they'll get paid at 4:25. As stated<br/>18 earlier, when the last bird goes down the line is<br/>19 when it's swiped. But on a normal basis, it's<br/>20 7:30 to 4:30 on day shift.<br/>21 Q. How is it different on the evening shift?<br/>22 A. You run until you get finished. It starts<br/>23 at 4:30 in debone and runs until you get finished.</p> |
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| <p>1 of one.<br/>2 Q. If an employee's scheduled work time is --<br/>3 Well, let me ask you this: Give me an example.<br/>4 Let's take debone. What's their scheduled start<br/>5 time?<br/>6 A. Day shift?<br/>7 Q. Day shift.<br/>8 A. 7:30.<br/>9 Q. If an employee's scheduled start time is<br/>10 7:30 and the master card is swiped at 7:35, which<br/>11 controls the pay of the employee?<br/>12 A. The master card would be swiped at 7:30.<br/>13 Q. Well, let's say that something prevents the<br/>14 supervisor from getting back out to the break room<br/>15 to swipe it.<br/>16 A. 7:30.<br/>17 Q. So the scheduled time would control?<br/>18 A. Yes.<br/>19 Q. At the end of the day, what's the 7:30 shift<br/>20 end time?<br/>21 A. 4:30.<br/>22 Q. If the supervisor swipes the master card at<br/>23 4:35, which controls? the scheduled time or the</p>   | <p>1 Q. But the evening shift though, the start of<br/>2 pay is on scheduled time?<br/>3 A. Yes. At 4:30.<br/>4 Q. And that's the scheduled time, correct?<br/>5 A. Correct.<br/>6 Q. If the master card is swiped at a time<br/>7 different than 4:30, the 4:30 scheduled time still<br/>8 controls the pay?<br/>9 A. Unless there's a reason why it was swiped<br/>10 later.<br/>11 Q. Okay. Now, you mentioned something in your<br/>12 affidavit about a three- to five-minute lag in one<br/>13 area, in change over from one shift to the other?<br/>14 A. Yeah.<br/>15 Q. Do you recall that?<br/>16 A. Let me find it.<br/>17 Q. Says, "In debone, work is stopped for<br/>18 approximately three to five minutes between<br/>19 shifts."<br/>20 Why is that?<br/>21 A. To gather up the knives and the metal<br/>22 gloves, for them to have the other ones out for<br/>23 the employees when they get out there.</p>  |

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| <p>1 Q. Okay. So in debone, after the last bird<br/>2 passes the final station, the master card is<br/>3 swiped for the first shift, day shift; is that<br/>4 right?<br/>5 A. Correct.<br/>6 Q. And you said that normally is at 4:30?<br/>7 A. Normally.<br/>8 Q. All right. You also said the evening shift,<br/>9 their scheduled start time is 4:30?<br/>10 A. Correct.<br/>11 Q. So how does this three- to five minutes<br/>12 work?<br/>13 A. There's no birds on the line at that time.<br/>14 They're not actually working. They're out there<br/>15 but they're not working.<br/>16 Q. So this is like from 4:33 to 4:35?<br/>17 A. I can't give you a definite answer on what<br/>18 time it is. But it takes three to five minutes to<br/>19 gather all the tools up and put the new tools out<br/>20 for the second shift to start. So that's in<br/>21 between day shift and the second shift.<br/>22 They're out there but they're not actually<br/>23 working on the line during that three to five</p> | <p>1 A. What department are you talking about?<br/>2 Q. The longest. Just pick what you think is<br/>3 the longest.<br/>4 A. Evis is about ten minutes. That's a guess;<br/>5 I don't actually know.<br/>6 Q. What's a typical amount of time from the<br/>7 first bird to the last?<br/>8 MR. ROSENTHAL: Objection to the form<br/>9 of the question.<br/>10 A. In what area are you talking about? What<br/>11 plant are you talking about?<br/>12 Q. Well, let's do it this way: What's the<br/>13 shortest amount of time it takes a bird to travel<br/>14 from the first station to the last station on a<br/>15 given line?<br/>16 MR. ROSENTHAL: Objection to the form<br/>17 of the question. You can answer.<br/>18 A. I don't know how to answer because I don't<br/>19 know what area you're talking about.<br/>20 Q. I'm hoping to talk about the shortest one.<br/>21 A. Which could be?<br/>22 Q. That's what I wanted you to tell me.<br/>23 A. The cone line is less than two minutes. The</p>                                    |
| 203   | 205   |
| <p>1 minutes.<br/>2 Q. So are the debone employees getting paid for<br/>3 that three to five minutes?<br/>4 A. Yes.<br/>5 Q. Are there records that will reflect this<br/>6 down time of three to five minutes?<br/>7 A. No, not as I'm aware of.<br/>8 Q. Do you know of any documents that describe<br/>9 this practice?<br/>10 A. Not as I'm aware of.<br/>11 Q. All the other areas, besides debone, you<br/>12 just have a skip in the line; and second shift<br/>13 steps up as the first shift steps off?<br/>14 A. Correct.<br/>15 Q. How much is the skip?<br/>16 A. I don't know the exact time amount of that.<br/>17 It's short. I don't know.<br/>18 Q. Is it as much as a minute?<br/>19 A. I don't know, as I stated.<br/>20 Q. What's the longest time, that you're aware<br/>21 of, from the first station to the last station, in<br/>22 terms of from the time a bird arrives at the first<br/>23 station until it arrives at the last station?</p>  | <p>1 rest of them, I really don't know. I know evis is<br/>2 approximately ten minutes.<br/>3 Q. Look at paragraph 31 of your affidavit. It<br/>4 says, "Before breaks or at the end of the day<br/>5 employees may spend a brief amount of time rinsing<br/>6 their work clothing."<br/>7 Is that a requirement?<br/>8 A. It's according to if they've got on an apron<br/>9 and there's nothing on it, no, they don't have to<br/>10 rinse it.<br/>11 Q. How about their gloves and sleeves?<br/>12 A. It's a standard practice for them to rinse<br/>13 them.<br/>14 Q. Where do they rinse?<br/>15 A. In the sinks, as they go out of the plant.<br/>16 Q. What do they rinse it with?<br/>17 A. Soap and water.<br/>18 Q. Is that part of the process you require in<br/>19 order to produce uncontaminated chicken products?<br/>20 A. I guess you could say that.<br/>21 Q. You don't want blood and guts and other<br/>22 things building up on the aprons, sleeves, gloves,<br/>23 and harboring or growing microorganisms, correct?</p> |

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| <p style="text-align: right;">206</p> <p>1 A. Correct.</p> <p>2 Q. And employees are reusing gloves, aprons, or</p> <p>3 sleeves the next day sometimes?</p> <p>4 A. Yes.</p> <p>5 Q. And they're storing them in their lockers?</p> <p>6 A. Yes.</p> <p>7 Q. And the purpose of that rule that they have</p> <p>8 to wash their aprons, gloves, and sleeves at the</p> <p>9 end of the day or on breaks is to prevent</p> <p>10 contamination to the chicken, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And the wash basins, for that purpose, are</p> <p>13 in the production area, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Employees, at that point, still have on</p> <p>16 their smocks, correct?</p> <p>17 A. I can't answer that. Some do; some don't.</p> <p>18 I can't answer that.</p> <p>19 Q. They don't -- The employees at the end of</p> <p>20 the day are required to put their smocks in a bin?</p> <p>21 A. Correct.</p> <p>22 Q. The bin's outside of the production area?</p> <p>23 A. Correct.</p>   | <p style="text-align: right;">208</p> <p>1 nets or beard net out of the production area</p> <p>2 during breaks, correct?</p> <p>3 A. They can wear their hair nets and beard nets</p> <p>4 outside the production area.</p> <p>5 Q. How long has that been the case?</p> <p>6 A. I can't answer that. As long as I can</p> <p>7 remember. They can't wear them outside, but they</p> <p>8 can wear them outside the production area.</p> <p>9 Q. Employee breaks are automatically deducted</p> <p>10 through the computer payroll system rather than</p> <p>11 through the use of a master card swipe, correct?</p> <p>12 A. The best of my knowledge. I don't know.</p> <p>13 Q. Have you ever known a master card to be used</p> <p>14 to determine breaks?</p> <p>15 A. No.</p> <p>16 Q. Have you ever known a personal time card to</p> <p>17 be used to determine breaks?</p> <p>18 A. Yeah. I have known that.</p> <p>19 Q. When?</p> <p>20 A. It's been several years ago, before I come</p> <p>21 to work here. But we used to clock in and out for</p> <p>22 breaks.</p> <p>23 Q. Which company was that?</p> |
| <p style="text-align: right;">207</p> <p>1 Q. So they still have their smocks with them</p> <p>2 when they're cleaning their aprons, gloves, and</p> <p>3 sleeves?</p> <p>4 A. Yes. But they could have them off.</p> <p>5 Q. I was thinking -- I need to read the rules,</p> <p>6 and I don't have time to really, but I was</p> <p>7 thinking though the rules say you had to take your</p> <p>8 smock off after you left the production room. Am</p> <p>9 I wrong in that?</p> <p>10 A. Take the smock off before you leave the</p> <p>11 production area. At the end of the shift, they</p> <p>12 take them off as they go out the door because</p> <p>13 they're not going to wear them back in.</p> <p>14 Q. Okay. At breaks, employees are not allowed</p> <p>15 to take their aprons and smocks outside the</p> <p>16 production area, correct?</p> <p>17 A. Correct. They hang them on a rack that's</p> <p>18 supplied for them.</p> <p>19 Q. And they're not allowed to take their gloves</p> <p>20 or sleeves outside the production area either, are</p> <p>21 they?</p> <p>22 A. Correct.</p> <p>23 Q. And they're not allowed to take their hair</p> | <p style="text-align: right;">209</p> <p>1 A. Wayne Farms.</p> <p>2 Q. But that was never a practice at CP?</p> <p>3 A. Not to the best of my knowledge.</p> <p>4 Q. And it's never been under Equity Group?</p> <p>5 A. Best of my knowledge it's hasn't been, no.</p> <p>6 Q. Equity Group is not calculating the amount</p> <p>7 of time employees actually spend on break free</p> <p>8 from any responsibilities; it's simply deducting a</p> <p>9 standard 30 minutes, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And the 30 minutes begins when the last</p> <p>12 chicken passes the last station on the line?</p> <p>13 A. No. The 30 minutes begins when it passes</p> <p>14 your station, whether you be the first or the</p> <p>15 last.</p> <p>16 Q. Is that in writing anywhere?</p> <p>17 A. Not as I know of.</p> <p>18 Q. Have you observed when employees are being</p> <p>19 sent on break?</p> <p>20 A. I've seen employees leave the line as soon</p> <p>21 as the last bird passes them, and they follow</p> <p>22 pursuit back in.</p> <p>23 Q. Now, at the time the last bird passes their</p>     |



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| <p style="text-align: right;">210</p> <p>1 station at break, they still have on their smock,<br/>2 apron, gloves, sleeves, earplugs, hair nets, beard<br/>3 nets, and boots; is that right?<br/>4 A. Correct.<br/>5 Q. Before they can leave the production area,<br/>6 they've got to doff all that?<br/>7 A. No.<br/>8 Q. Except for, I think you said, the hair net<br/>9 and the beard net?<br/>10 A. And their boots and their earplugs.<br/>11 Q. Okay. But everything else they've got to<br/>12 doff after the break has begun?<br/>13 A. After they leave the line.<br/>14 Q. So they're doffing all of that on unpaid<br/>15 time, correct?<br/>16 A. As far as I know. But I've never put a<br/>17 stopwatch on it.<br/>18 Q. Now, when an employee goes to the restroom<br/>19 while the line is running, they also have to doff<br/>20 everything, as you have already told us, before<br/>21 they can leave the production area, correct?<br/>22 A. Correct.<br/>23 Q. That's considered work time and they're paid</p>   | <p style="text-align: right;">212</p> <p>1 the door and they start getting ready to go to the<br/>2 line.<br/>3 Q. But an employee's break continues until he's<br/>4 back on the line working?<br/>5 A. Not necessarily.<br/>6 Q. I don't know if you might have an exception,<br/>7 but that's the standard situation, isn't it?<br/>8 A. I don't know the answer to that. I've never<br/>9 timed them.<br/>10 Q. Well, an employee's unpaid time is from the<br/>11 time he peels off the production line until the<br/>12 time he's back on the production line. That's<br/>13 supposed to be 30 minutes, correct?<br/>14 A. He's got 30 minutes of unpaid breaks.<br/>15 Q. And that 30 minutes he's required to be on<br/>16 the line at the commencement of it and back on the<br/>17 line at the end of it, correct?<br/>18 A. Should be.<br/>19 Q. And during that period he has had to doff<br/>20 all of his protective equipment, resanitize it,<br/>21 and redon it, correct?<br/>22 A. Yeah.<br/>23 Q. And all that's on unpaid time during the</p> |
| <p style="text-align: right;">211</p> <p>1 for it, correct?<br/>2 A. They get paid for that.<br/>3 Q. They're exerting the same amount of effort<br/>4 to doff when they go to the restroom during the<br/>5 production line as they are when they doff on an<br/>6 unpaid break, correct?<br/>7 MR. ROSENTHAL: Objection to the form<br/>8 of the question. You can answer.<br/>9 A. I would say so.<br/>10 Q. And during the break, the employees are<br/>11 required to sanitize their hands, gloves, sleeves,<br/>12 aprons that they're using when they return --<br/>13 before they return to the production area, or when<br/>14 they return to the production area?<br/>15 A. When they return to the production room.<br/>16 Q. They have to do that inside the production<br/>17 room at the sinks; is that right?<br/>18 A. Correct.<br/>19 Q. But their pay time doesn't begin until after<br/>20 that, when they return to the line and the<br/>21 chickens start coming again, correct?<br/>22 A. No. Their 30 minutes is up when they're<br/>23 called back to break. And then they walk through</p> | <p style="text-align: right;">213</p> <p>1 break?<br/>2 A. Yes.<br/>3 Q. But if he goes to the nurse's station or to<br/>4 the quality assurance office or to the restroom or<br/>5 to the supply room during the production line, he<br/>6 does the exact same amount of activities, but he's<br/>7 paid for that?<br/>8 MR. ROSENTHAL: Objection to the form<br/>9 of the question.<br/>10 Q. Correct?<br/>11 A. Yes.<br/>12 MR. WIGGINS: Let's take a break. I'm<br/>13 about done.<br/>14 (A brief recess was taken.)<br/>15 (BY MR. WIGGINS)<br/>16 Q. Employees rotate jobs when they come back<br/>17 from break too, don't they?<br/>18 A. I can't answer that. I don't know.<br/>19 Q. You mentioned a HACCP plan. That's a<br/>20 written document, correct?<br/>21 A. Correct.<br/>22 Q. You said it's required to be kept out on the<br/>23 floor, along with the sanitation master plan?</p>   |

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| <p style="text-align: right;">214</p> <p>1 A. No. It's required to be kept on site. Not<br/>2 on the floor, on site.<br/>3 Q. Okay. What's covered in the HACCP plan?<br/>4 A. HACCP plan is a government-regulated<br/>5 program. And I don't know really the details.<br/>6 But you have to go through the entire process and<br/>7 list critical control points, CCPs as they are<br/>8 called, and you have to follow that plan. It's a<br/>9 plan that's mandated by USDA.<br/>10 Q. Okay. Now, looking at Exhibit 17, it's got<br/>11 this P-20322 number right below the name of the<br/>12 plant. Do you see that?<br/>13 A. Yes.<br/>14 Q. What does that stand for?<br/>15 A. That's the plant number. That's the number<br/>16 that USDA issued that plant.<br/>17 Q. So USDA is treating slaughter, debone, and<br/>18 further processing as one plant?<br/>19 A. Yes.<br/>20 Q. Has that always been the case?<br/>21 A. Here, yes.<br/>22 Q. In Eufaula?<br/>23 A. Yes.</p>   | <p style="text-align: right;">216</p> <p>1 A. Talking about this entire 17?<br/>2 Q. Yes.<br/>3 A. Some of it is USDA requirements; some of it<br/>4 is our requirements.<br/>5 Q. But the items that you do to prevent<br/>6 contamination of poultry product is because that's<br/>7 a requirement of the USDA?<br/>8 MR. ROSENTHAL: Objection to the form<br/>9 of the question.<br/>10 A. The USDA, us as a company, both.<br/>11 Q. Both the company requirement and the USDA<br/>12 requirement?<br/>13 A. Could be both. Could be.<br/>14 Q. All right. Now, as I understand -- And I've<br/>15 never been in a chicken plant, so you tell me if<br/>16 I've got a bad understanding -- the line is a<br/>17 continuous production line, correct?<br/>18 A. Yes, most of them are.<br/>19 Q. It doesn't stop from when it goes from<br/>20 evisceration to debone?<br/>21 A. Yes, it stops. There's no one line that<br/>22 runs all the way through that facility.<br/>23 Q. Does the chicken on the --</p>                                 |
| <p style="text-align: right;">215</p> <p>1 Q. And what's that P number used for?<br/>2 A. That's our number that USDA -- that's our<br/>3 name for USDA.<br/>4 Q. To track meat?<br/>5 A. Track meat. That's our number.<br/>6 Q. In other words, if poultry gets out in the<br/>7 market and something's wrong with it, they can<br/>8 track it back to you; is that the purpose?<br/>9 A. Yes. That number is on our labels of our<br/>10 product.<br/>11 Q. Okay. And when I asked you the various<br/>12 questions about whether the activities listed in<br/>13 Exhibit 17, such as the donning, doffing, and the<br/>14 sanitizing activities were for the purpose of<br/>15 preventing contamination of chicken, that's a<br/>16 requirement of the USDA, correct?<br/>17 MR. ROSENTHAL: Objection to the form<br/>18 of the question. It's not a summary of what the<br/>19 witness said. But you can answer.<br/>20 A. I don't remember what's in 17 at this point.<br/>21 But, you know, the USDA does have regulations.<br/>22 Q. That's 17, the one we went over for a good<br/>23 bit after lunch.</p> | <p style="text-align: right;">217</p> <p>1 A. The production flow starts here and goes to<br/>2 here, but there's not no one line.<br/>3 Q. Okay. But for any one line, the flow<br/>4 doesn't stop when it moves from evisceration to<br/>5 debone, does it?<br/>6 A. No.<br/>7 Q. So you really couldn't stop for three to<br/>8 five minutes in debone without stopping for three<br/>9 to five minutes in evisceration, could you?<br/>10 A. Yes.<br/>11 Q. How would you do that?<br/>12 A. Combo the birds off. We've got a system<br/>13 that will hold birds.<br/>14 Q. What do you mean by "combo the birds off"?<br/>15 A. Put them into a container.<br/>16 Q. Is that done every shift?<br/>17 A. Yeah. Do it every day to some degree. Some<br/>18 days worse than others.<br/>19 Q. Are there days when you don't do that?<br/>20 A. If there is additional space on tables and<br/>21 areas that we have for birds to stay, yes, we can<br/>22 do that. We can stop for three minutes and not<br/>23 shut down the entire plant.</p> |



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| <p style="text-align: right;">218</p> <p>1 Q. Now, in that three to five minutes, you said<br/>2 that the employees are being paid on the evening<br/>3 shift, even though there's no birds coming down<br/>4 the line?<br/>5 A. Evening or day shift, whichever it falls in.<br/>6 It could be half on each. I don't know the answer<br/>7 to that. But they are being paid because it's<br/>8 within their time frame at work.<br/>9 Q. So they're being paid -- Either or both of<br/>10 the day shift and evening shift are being paid for<br/>11 the three to five minutes that there is no<br/>12 chickens on the line?<br/>13 A. Correct.<br/>14 Q. And that three to five minutes is obviously<br/>15 not line time because there are no chickens on the<br/>16 line, correct?<br/>17 A. Correct.<br/>18 Q. And that's handled in the same way you<br/>19 handle the three minutes for donning and doffing?<br/>20 A. No.<br/>21 Q. You said you pay them three minutes?<br/>22 A. We pay them three minutes.<br/>23 Q. And the same thing on the three to five</p>  | <p style="text-align: right;">220</p> <p>1 A. Yes, it is.<br/>2 Q. As I understand it, the evening shift swipes<br/>3 and then -- I'm sorry. Let me start over.<br/>4 The day shift swipes three to five minutes<br/>5 different than the evening shift swipes on the<br/>6 master card?<br/>7 A. I don't know. I don't know the answer to<br/>8 that. I wouldn't think so. Our normal ending<br/>9 time is at 4:30 on day shift; our normal start<br/>10 time is at 4:30 on evening shift.<br/>11 Q. Is there any other time of day that you<br/>12 combo the birds off the line?<br/>13 A. Sure. Any time we have a breakdown we have<br/>14 to combo them.<br/>15 Q. And combo-ing the birds off means that you<br/>16 take the birds off the moving line, put them in<br/>17 some storage container, keep them there for three<br/>18 to five minutes, and then put them back on the<br/>19 line, right?<br/>20 MR. ROSENTHAL: Objection. You're<br/>21 talking about the three to five minutes between<br/>22 the shifts or at any time?<br/>23 MR. WIGGINS: Between the shifts.</p>   |
| <p style="text-align: right;">219</p> <p>1 minutes on the shift changeover; you simply pay it<br/>2 even though it's not line time, correct?<br/>3 A. Correct. But the three minutes on donning<br/>4 and doffing that we now pay is just added to their<br/>5 normal ever how many hours they work that week.<br/>6 Q. And they normally work eight hours, correct?<br/>7 A. On day shift.<br/>8 Q. So they are now been paid eight hours and<br/>9 three minutes?<br/>10 A. If they work an eight-hour shift that day,<br/>11 they're getting paid eight hours and three<br/>12 minutes, whatever the contract says.<br/>13 Q. And that's simply programmed into the<br/>14 computer payroll system?<br/>15 A. Correct.<br/>16 Q. And that three minutes is not paid by any<br/>17 master card swipe time?<br/>18 A. It's on their check as D&amp;D or donning and<br/>19 doffing or some way. It's set up where it pays<br/>20 that. It's shown it on the bottom of their check.<br/>21 Q. Now, that three to five minutes in the<br/>22 debone department between day shift and evening<br/>23 shift, that's not on master card time either?</p> | <p style="text-align: right;">221</p> <p>1 A. We put them back on the line whenever we can<br/>2 work them back in.<br/>3 Q. But that's extra work that you're having to<br/>4 do that you wouldn't have to do if you left them<br/>5 on a continuous line, correct?<br/>6 A. Correct.<br/>7 Q. And who's responsible for that extra work?<br/>8 A. The debone employees, or wherever it's at,<br/>9 whatever department it's in any time we have a<br/>10 mechanical breakdown. So it could be evis.<br/>11 Q. Have you ever known any item to be<br/>12 negotiated in the collective bargaining process<br/>13 without having a written proposal from the union<br/>14 or the company on that topic?<br/>15 A. I don't recall. Not that I'm aware of. I<br/>16 don't recall.<br/>17 Q. Did the four people that signed the 2008<br/>18 collective bargaining agreement have the authority<br/>19 to agree to that three minutes to be paid for<br/>20 donning and doffing by themselves, without getting<br/>21 any higher approval?<br/>22 A. I don't know the answer to that. Because<br/>23 when the final decision was made, Huntsville was</p> |

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| <p style="text-align: right;">222</p> <p>1 made aware of what we had come up with, and then</p> <p>2 decided on it.</p> <p>3 Q. Had other Equity Group plants put in three</p> <p>4 minutes for donning and doffing?</p> <p>5 A. I don't know.</p> <p>6 Q. Do you know who had the final authority to</p> <p>7 agree to that three minutes?</p> <p>8 A. No. The four that signed the contract, I</p> <p>9 guess, with leadership from our attorney and our</p> <p>10 Huntsville group involved in it.</p> <p>11 Q. Who in the Huntsville group?</p> <p>12 A. I don't know the answer to that.</p> <p>13 Q. Do you still have your copy of Exhibit 17</p> <p>14 there?</p> <p>15 A. Here it is.</p> <p>16 Q. Turn to page 6.</p> <p>17 A. (Witness complies.)</p> <p>18 Q. Do you see at the top of the page, the end</p> <p>19 of No. 3, it refers to Section 7.1, 7.2 of Codex</p> <p>20 Alimentarius?</p> <p>21 A. Yeah, I see it.</p> <p>22 Q. What is that?</p> <p>23 A. I have no idea. I don't know.</p>   | <p style="text-align: right;">224</p> <p>1 and picks it up and puts it into a clean edible</p> <p>2 tote, it's put on hold.</p> <p>3 Q. If an employee drops product on the floor</p> <p>4 and touches it and doesn't resanitize his hands,</p> <p>5 is it put on hold?</p> <p>6 A. Yes, can be.</p> <p>7 Q. And then it refers in the same paragraph to</p> <p>8 a USDA hold. What type of sanitation infraction</p> <p>9 would cause a USDA hold?</p> <p>10 A. Same thing, if they catch you before QA</p> <p>11 does.</p> <p>12 Q. You have USDA employees inspecting on every</p> <p>13 part of the production process?</p> <p>14 A. Yes.</p> <p>15 Q. How many USDA employees do you have in your</p> <p>16 fresh plant?</p> <p>17 A. A minimum of 11 per shift.</p> <p>18 Q. And do you have them in there during the</p> <p>19 sanitation shift also?</p> <p>20 A. No.</p> <p>21 Q. That's just your two operating shifts?</p> <p>22 A. Two operating shifts.</p> <p>23 Q. Do you have USDA in during the sanitation</p> |
| <p style="text-align: right;">223</p> <p>1 Q. Turn over to page 11.</p> <p>2 A. (Witness complies.)</p> <p>3 Q. No. 18. It refers to a quality assurance</p> <p>4 hold. What is that?</p> <p>5 A. If for any reason product doesn't meet spec,</p> <p>6 QA puts the product on hold and applies a QA hold</p> <p>7 tag that states "QA Hold."</p> <p>8 Q. If you had employees on the line who had not</p> <p>9 sanitized their hands, gloves, sleeves, or apron,</p> <p>10 would it be subject to a quality assurance hold?</p> <p>11 A. I've never been made aware that anything's</p> <p>12 been put on QA hold for not washing their hands.</p> <p>13 Q. First of all, are you knowledgeable of the</p> <p>14 reasons for quality assurance holds?</p> <p>15 A. Some of them, not all of them.</p> <p>16 Q. What type of sanitation matters would cause</p> <p>17 a quality assurance hold?</p> <p>18 A. If the plant's not clean.</p> <p>19 Q. What about the employees? What if they're</p> <p>20 not meeting sanitation requirements?</p> <p>21 A. I've never known of anything being put on</p> <p>22 hold that the employee was dirty.</p> <p>23 If the employee drops product on the floor</p> | <p style="text-align: right;">225</p> <p>1 shift?</p> <p>2 A. Part of it.</p> <p>3 Q. Which part?</p> <p>4 A. At the ending of the cleanup.</p> <p>5 Q. Do you keep records of your quality</p> <p>6 assurance holds?</p> <p>7 A. I don't; QA does.</p> <p>8 Q. Do you know how long you keep those?</p> <p>9 A. No.</p> <p>10 Q. What about your USDA holds? Do you keep</p> <p>11 those for any period of time?</p> <p>12 A. No, I don't; USDA does.</p> <p>13 Q. I mean, does the company?</p> <p>14 A. If it does, QA keeps them. I'm not aware of</p> <p>15 it. They may.</p> <p>16 Q. Top of page 12, it refers to posting a "Wash</p> <p>17 Hands before Returning to Work" sign. Has that</p> <p>18 been done?</p> <p>19 A. I don't know the answer to that.</p> <p>20 Q. It says that's supposed to be in the</p> <p>21 restrooms, correct?</p> <p>22 A. That's what it says.</p> <p>23 Q. Employees are required to wash and sanitize</p>   |

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1 their hands before leaving the restroom, correct?  
2 A. Correct.  
3 Q. They then can go either to the break room,  
4 supply room, or outside, correct?  
5 A. Repeat your question.  
6 Q. After they have washed their hands in the  
7 restroom, if they're still on break they can go on  
8 outside, or to the supply room, or to the break  
9 room, or anywhere they want to go, correct?  
10 A. Correct.  
11 Q. But when they enter the production area  
12 again, they have to resanitize their hands a  
13 second time, correct?  
14 A. Have to rewash their hands, correct.  
15 Q. And that's true on any type of leaving the  
16 work area, whether it's on production line time or  
17 on break time, correct?  
18 A. Correct.  
19 Q. Employees are not allowed to stay in the  
20 production area during breaks, are they?  
21 A. Yeah, they can. I mean, some do; some  
22 don't. Very few do. But they can stay in there.  
23 That's their choice.

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1 Q. But you've already told us there's no food  
2 or drink allowed.  
3 A. Correct.  
4 Q. And there's no bathrooms in there?  
5 A. No bathrooms.  
6 Q. Okay. Thank you.  
7 MR. ROSENTHAL: I don't have any  
8 questions for you.  
9 MR. WIGGINS: Howard, we want, in  
10 addition to the sanitation manual we asked for, we  
11 think that the SOPs of sanitation, boots, all  
12 these SOPs that deal with donning, doffing,  
13 sanitation, that type of thing are due to be  
14 produced.  
15 We'd like to have an updated layout of the  
16 plant now that it's been revised, if you've got  
17 one. And we'd like to have HACCP plan. Anything  
18 else?  
19 MS. MCGOWAN: When we were having our  
20 conversation, I kept saying, "Do we have this in  
21 an electronic version?" And y'all kept saying,  
22 "We've produced everything."  
23 MR. ROSENTHAL: No, no.

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1 MS. MCGOWAN: Well, for some reason we  
2 had a communication problem. So just so we're  
3 clear, so there's no communication problem, we  
4 want the Kronos information on electronic disk,  
5 because you keep it, don't you?  
6 MR. ROSENTHAL: We don't have one. The  
7 Kronos information is in hard copy, and it's  
8 available for you to review.  
9 MS. MCGOWAN: What are you using now?  
10 MR. ROSENTHAL: I've got the hard  
11 copies.  
12 MS. MCGOWAN: I know. But do you use  
13 Kronos now?  
14 MR. ROSENTHAL: They're not something  
15 which we can convert. It's a specialized program.  
16 We have the hard copies. It's the only thing that  
17 I'm aware of that I can give you, and we've made  
18 them available since September. And that's what  
19 we told you. We read right from the response.  
20 MS. MCGOWAN: Well, we can agree to  
21 disagree what I understand and what you  
22 understood, but --  
23 MR. ROSENTHAL: And those documents

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1 are --  
2 MS. MCGOWAN: You printed it off. Do  
3 they print it every day and dump it, or why is it  
4 not available electronically?  
5 MR. ROSENTHAL: I can't answer that  
6 question, Candis. I can tell you what we have  
7 available and what we've offered to make  
8 available. It's the same thing we've offered  
9 since September.  
10 I can't today find out what else will be  
11 available when the first time we got a request was  
12 today.  
13 MS. MCGOWAN: No, no.  
14 MR. ROSENTHAL: That's the first  
15 request we had. We were not asked for an  
16 electronic copy from the time we responded to  
17 discovery last September. You asked about it last  
18 Friday, and I told you what the answer was.  
19 MR. WIGGINS: Let me see if I  
20 understand you, Howard. Y'all have it on  
21 electronic form, but you say it's a problem  
22 converting it?  
23 MR. ROSENTHAL: I don't know that we

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| <p>1 have it for every employee going back as far as</p> <p>2 March of 2004. And all I'm saying is I will have</p> <p>3 some time after this week to determine what's</p> <p>4 available and what we can make available and how</p> <p>5 we can make it available.</p> <p>6 MR. WIGGINS: Well, I hope it doesn't</p> <p>7 come to this, but once we get these SOPs and these</p> <p>8 other things I've listed, it could trigger some</p> <p>9 questions of this witness.</p> <p>10 MR. ROSENTHAL: Our position is very</p> <p>11 simple: We produced responses to discovery in</p> <p>12 September. The first time we were asked to</p> <p>13 present witnesses was when we received the Notice</p> <p>14 of Deposition. We objected to the Request For</p> <p>15 Production; that's been ruled on.</p> <p>16 So I'm not suggesting that you have a right</p> <p>17 to bring anyone back.</p> <p>18 MR. WIGGINS: Yeah, I understand you're</p> <p>19 not. And I'm not taking a position on it until I</p> <p>20 see the documents. But I do want to be clear</p> <p>21 though that the documents that I've asked for --</p> <p>22 and I don't know much about the Kronos thing --</p> <p>23 but the documents I'd asked for I think were due</p>      | <p>1 need for further questions. Hopefully, it won't.</p> <p>2 MR. ROSENTHAL: Okay.</p> <p>3</p> <p>4 (The deposition was concluded</p> <p>5 at 4:30 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| 231  | 233   |
| <p>1 under the original document production.</p> <p>2 MR. ROSENTHAL: I disagree with that.</p> <p>3 And at the close of this deposition, our position</p> <p>4 is that you're done with this witness. I</p> <p>5 understand you can take a different position.</p> <p>6 As I said to Candis last week, we'll take</p> <p>7 all requests under advisement and get the</p> <p>8 documents to you to the extent that we can. It</p> <p>9 won't happen this week.</p> <p>10 MR. WIGGINS: I understand. And it may</p> <p>11 be Much Ado About Nothing when we see them.</p> <p>12 MR. ROSENTHAL: Even to the extent we</p> <p>13 can locate them, I'm going to assume that whatever</p> <p>14 you told the court reporter is the extent of what</p> <p>15 you're asking for, and we'll see what we can do.</p> <p>16 For example, I don't know that there's any</p> <p>17 layout of the plant as it is currently; we'll</p> <p>18 certainly look for that.</p> <p>19 MR. WIGGINS: Well, the ones I listed</p> <p>20 were just ones that showed up today. There may be</p> <p>21 some that will show up with the next witness, I</p> <p>22 don't know. But we can worry about that later. I</p> <p>23 just wanted to tell you that it could trigger the</p> | <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 S T A T E O F A L A B A M A</p> <p>4 B A R B O U R C O U N T Y</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription, and that the foregoing represents</p> <p>11 a true and correct transcript of the testimony</p> <p>12 given by said witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor kin to the parties to the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18</p> <p>19 CYNTHIA M. NOAKES, Commissioner</p> <p>20 Certified Court Reporter,</p> <p>21 ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23 Commission Expires 07/08/2009</p> |

**TAB 40**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF  
SHAKERIA MOORE

JOB NO. 1101-58403

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 22nd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of SHAKERIA MOORE may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 22nd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6</p> <p>5 Mr. Underwood 40</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 Carl E. Underwood, III, Esq.</p> <p>5 THE COCHRAN FIRM</p> <p>6 163 West Main Street</p> <p>7 Dothan, Alabama 36302</p> <p>8</p> <p>9 M. John Steensland, III, Esq.</p> <p>10 PARKMAN, ADAMS &amp; WHITE</p> <p>11 739 West Main Street</p> <p>12 Dothan, Alabama 36301</p> <p>13</p> <p>14 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>15 Gary D. Fry, Esq.</p> <p>16 Pelino &amp; Lentz</p> <p>17 One Liberty Place</p> <p>18 Thirty-Second Floor</p> <p>19 1650 Market Street</p> <p>20 Philadelphia, Pennsylvania 19103</p> <p>21</p> <p>22 *****</p> <p>23</p> |



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| <p style="text-align: right;">6</p> <p>1 I, Victoria M. Castillo, a Court<br/> 2 Reporter of Montgomery, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 7 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 8 36027, commencing at 3:57 p.m., SHAKERIA MOORE, in<br/> 9 the above cause, for oral examination, whereupon<br/> 10 the following proceedings were had:<br/> 11<br/> 12 SHAKERIA MOORE,<br/> 13 being first duly sworn, was examined and<br/> 14 testified as follows:<br/> 15<br/> 16 COURT REPORTER: Usual<br/> 17 stipulations?<br/> 18 MR. FRY: That's fine.<br/> 19 MR. UNDERWOOD: Yes.<br/> 20<br/> 21 EXAMINATION BY MR. FRY:<br/> 22 Q. Good afternoon. How are we doing?<br/> 23 A. All right. How are you?</p>  | <p style="text-align: right;">8</p> <p>1 Okay?<br/> 2 A. Okay.<br/> 3 Q. Because she can't take that down.<br/> 4 A. Okay.<br/> 5 Q. And the last rule is: Let's not try<br/> 6 and talk over one another because she can't take<br/> 7 down two people talking at the same time. Okay?<br/> 8 A. Okay.<br/> 9 Q. What's your home address?<br/> 10 A. 759 Rocky Mount Church Road, and it's<br/> 11 Eufaula.<br/> 12 Q. And what's your date of birth?<br/> 13 A. 4/27 of '87.<br/> 14 Q. Are you currently employed?<br/> 15 A. Yes, by another employer. I am no<br/> 16 longer employed with Keystone.<br/> 17 Q. When did you last work for Keystone?<br/> 18 A. February of '07.<br/> 19 Q. I'm going to refer to Keystone as<br/> 20 Equity. Is that okay with you?<br/> 21 A. Okay.<br/> 22 Q. How long did you work there?<br/> 23 A. About 17, 18 months.</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Ms. Moore, my name is Gary Fry. I'm<br/> 2 an attorney, and I represent Equity Group Eufaula,<br/> 3 the folks that run the poultry plant out in Baker<br/> 4 Hill, and we have asked you to come here today to<br/> 5 put some questions to you concerning the claims<br/> 6 that you and some other folks have made against<br/> 7 Equity with respect to wages and hours at that<br/> 8 plant. Have you ever been deposed before?<br/> 9 A. I don't know what you mean by<br/> 10 "deposed"?<br/> 11 Q. Have you ever done something like<br/> 12 this before to your knowledge?<br/> 13 A. No.<br/> 14 Q. Your lawyers probably told you a<br/> 15 little bit about the procedure. Let me briefly<br/> 16 explain. I will be asking the questions. You will<br/> 17 be supplying me with the answers, and Victoria, our<br/> 18 court reporter, will be taking down what we both<br/> 19 say. If you don't understand my question, it's<br/> 20 important for you to let me know that so I that can<br/> 21 rephrase it. If you don't hear my question, let me<br/> 22 know so I can repeat. You have to keep all of your<br/> 23 answers verbal. You can't nod or shake your head.</p> | <p style="text-align: right;">9</p> <p>1 Q. So that would take us back into '06<br/> 2 sometime. Do you recall your start date?<br/> 3 A. I started in September of '05.<br/> 4 Q. September of '05?<br/> 5 A. Uh-huh.<br/> 6 Q. And for what reason did you leave<br/> 7 that job?<br/> 8 A. A conversation with another employee.<br/> 9 Q. You got a better job, another job?<br/> 10 A. Another job.<br/> 11 Q. What did you do when you worked<br/> 12 there?<br/> 13 A. Debone.<br/> 14 Q. What did you do in debone?<br/> 15 A. I was on the line, debone line.<br/> 16 Q. And were you in that position the<br/> 17 whole time you worked there?<br/> 18 A. No.<br/> 19 Q. Was that the position that you had<br/> 20 right when you left?<br/> 21 A. No.<br/> 22 Q. That was your first position?<br/> 23 A. Yes, that was my first position.</p>              |

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| <p style="text-align: right;">10</p> <p>1 Q. And how long did you have that job?</p> <p>2 A. About two months at the most.</p> <p>3 Q. And what shift was that?</p> <p>4 A. Second.</p> <p>5 Q. What were your hours?</p> <p>6 A. 4:30 to 1:30.</p> <p>7 Q. That's 4:30 p.m. to 1:30 a.m.?</p> <p>8 A. Uh-huh.</p> <p>9 Q. And after two months on the debone</p> <p>10 line, what did you do?</p> <p>11 A. The wash station.</p> <p>12 Q. Pardon?</p> <p>13 A. Wash station.</p> <p>14 Q. Wash station?</p> <p>15 A. Yes.</p> <p>16 Q. And what sort of job was that?</p> <p>17 A. Washing the product.</p> <p>18 Q. Was that in the debone department?</p> <p>19 A. Yes.</p> <p>20 Q. Where was that located with respect</p> <p>21 to the debone line itself?</p> <p>22 A. Right across from the lines.</p> <p>23 Q. What did you do on the debone line?</p>  | <p style="text-align: right;">12</p> <p>1 A. Right after I left from the debone</p> <p>2 line. After the two months of being on the line,</p> <p>3 that was my job until I left.</p> <p>4 Q. Until you left --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- second shift?</p> <p>7 A. Yes.</p> <p>8 Q. Did you work any other jobs while you</p> <p>9 were employed by Equity?</p> <p>10 A. No.</p> <p>11 Q. Who was your supervisor, if you can</p> <p>12 recall?</p> <p>13 A. I remember her first name. I don't</p> <p>14 remember her last name. First name was Sheila. I</p> <p>15 can't recall her last name.</p> <p>16 Q. What was your rate of pay when you</p> <p>17 left?</p> <p>18 A. I think \$9.45 -- I'm not sure.</p> <p>19 Q. Did you work 40 hours per week?</p> <p>20 A. Yes.</p> <p>21 Q. Monday through Friday?</p> <p>22 A. Yes.</p> <p>23 Q. Were you a member of the Union while</p>   |
| <p style="text-align: right;">11</p> <p>1 A. Cut the meat.</p> <p>2 Q. Did you rotate positions on that</p> <p>3 line?</p> <p>4 A. Yes.</p> <p>5 Q. Did you rotate daily?</p> <p>6 A. Yes.</p> <p>7 Q. How many times per day would you</p> <p>8 rotate?</p> <p>9 A. I think it was like three.</p> <p>10 Q. Explain to me in a little bit more</p> <p>11 detail what you did at the wash station?</p> <p>12 A. I washed the product that came from</p> <p>13 the line that fell to the floor. We would wash it.</p> <p>14 Q. So that was your job, to wash the</p> <p>15 stuff that fell on the floor?</p> <p>16 A. Yes.</p> <p>17 Q. And to do that, did you walk up and</p> <p>18 down the line to police the floor, or was the</p> <p>19 product brought to you?</p> <p>20 A. At times it was brought to me, but</p> <p>21 most of the time we would have to go and walk the</p> <p>22 lines ourselves.</p> <p>23 Q. How long did you do that job?</p> | <p style="text-align: right;">13</p> <p>1 you were there?</p> <p>2 A. No.</p> <p>3 Q. It's my understanding that you are a</p> <p>4 party to this lawsuit that we're talking about,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. How did you find out about the</p> <p>8 lawsuit?</p> <p>9 A. A friend of mine.</p> <p>10 Q. What was the friend's name?</p> <p>11 A. I can't remember. I just knew her</p> <p>12 from work. I can't remember her name.</p> <p>13 Q. What did the friend tell you?</p> <p>14 A. She just mentioned that she had heard</p> <p>15 that they was getting sued for not paying us for</p> <p>16 our wages. And I asked my supervisor when I got</p> <p>17 back to work, and she said that they was getting a</p> <p>18 lawsuit against them.</p> <p>19 Q. Did your supervisor try to discourage</p> <p>20 you from joining the lawsuit?</p> <p>21 A. Yes, at first.</p> <p>22 Q. What did she say?</p> <p>23 A. That -- I can't remember her exact</p> |

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| <p style="text-align: right;">14</p> <p>1 words. I don't know. I can't recall her exact</p> <p>2 words.</p> <p>3 Q. What was your understanding of what</p> <p>4 your claim is in this lawsuit?</p> <p>5 A. Not getting paid for time served.</p> <p>6 Q. What time served, what were you doing</p> <p>7 during that time for which you weren't paid?</p> <p>8 A. Working.</p> <p>9 Q. What work did you perform for which</p> <p>10 you weren't paid?</p> <p>11 A. The wash station.</p> <p>12 Q. Pardon?</p> <p>13 A. The wash station.</p> <p>14 Q. At the wash station. So your claim</p> <p>15 is that you were working at the wash station and</p> <p>16 you weren't being paid for what you were doing</p> <p>17 there, which was washing chickens?</p> <p>18 A. I wasn't getting paid my full time</p> <p>19 while working at the wash station. Like when we go</p> <p>20 to break, they wasn't paying us.</p> <p>21 Q. What weren't they paying you for?</p> <p>22 A. The time.</p> <p>23 Q. The time --</p>                            | <p style="text-align: right;">16</p> <p>1 Q. And it was work that you were</p> <p>2 performing at the station, is that what your claim</p> <p>3 is?</p> <p>4 A. Yes.</p> <p>5 Q. In order to do your job at the wash</p> <p>6 station, what sort of clothing or equipment -- or</p> <p>7 PPE, as some people have called it -- did you put</p> <p>8 on every day?</p> <p>9 A. The smock, the apron, the cotton</p> <p>10 gloves, the rubber gloves, the hair net, the ear</p> <p>11 plugs, the safety goggles, the chain glove, the</p> <p>12 boots.</p> <p>13 Q. Anything else?</p> <p>14 A. The sleeves. I think that's</p> <p>15 everything.</p> <p>16 Q. Let me run down the list and make</p> <p>17 sure we have everything. The smock, the apron, the</p> <p>18 gloves, the hair net, the ear plugs, the goggles,</p> <p>19 the chain mesh glove, the boots, and the plastic</p> <p>20 sleeves?</p> <p>21 A. The cotton.</p> <p>22 Q. And the white cotton liners?</p> <p>23 A. Liners, yes.</p> |
| <p style="text-align: right;">15</p> <p>1 A. My work.</p> <p>2 Q. The work at the wash station? I'm</p> <p>3 just trying to get an understanding, Ms. Moore, as</p> <p>4 to what the factual basis is for your claim, what</p> <p>5 you think it is?</p> <p>6 A. Not getting paid for the hours.</p> <p>7 Q. Not being paid for the hours worked?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Can you tell me what you were doing</p> <p>10 during those hours that you weren't paid for?</p> <p>11 A. It's like me and my supervisor, like</p> <p>12 the Master Card -- they would clock us out before</p> <p>13 we even leave the floor. They wasn't giving us our</p> <p>14 time.</p> <p>15 Q. Let me see if I understand you. And</p> <p>16 if I don't accurately state what you told me, let</p> <p>17 me know. You are making a claim for work done</p> <p>18 after the Master Card was swiped?</p> <p>19 A. Yes.</p> <p>20 Q. Was that work done at the wash</p> <p>21 station?</p> <p>22 A. My work was done at the wash station,</p> <p>23 yes.</p> | <p style="text-align: right;">17</p> <p>1 Q. Anything else?</p> <p>2 A. That's it.</p> <p>3 Q. When you moved off the debone line</p> <p>4 and you went to the wash station job, which of</p> <p>5 those items did you wear?</p> <p>6 A. The same items.</p> <p>7 Q. Same items?</p> <p>8 A. Yes.</p> <p>9 Q. Was it your understanding that all of</p> <p>10 those items were required to be worn?</p> <p>11 A. Yes, they were.</p> <p>12 Q. Am I correct that each of those items</p> <p>13 was issued to you by the company?</p> <p>14 A. When I first started, yes.</p> <p>15 Q. Did that change?</p> <p>16 A. If I needed new, then we would have</p> <p>17 to go purchase it ourselves.</p> <p>18 Q. What was your understanding as to</p> <p>19 when you had to purchase any of these items?</p> <p>20 A. What you mean, what was my</p> <p>21 understanding?</p> <p>22 Q. I mean, you said the company issued</p> <p>23 you these items initially, and then thereafter you</p>                 |

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| <p style="text-align: right;">18</p> <p>1 had to pay for them?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Are you saying that if you wore a</p> <p>4 hole in your apron, you would have to buy a new</p> <p>5 one?</p> <p>6 A. Yes.</p> <p>7 Q. Did you ever have to do that?</p> <p>8 A. Yes.</p> <p>9 Q. And how much did the apron cost?</p> <p>10 A. I can't remember how much they were.</p> <p>11 Q. Which of these items did you pick up</p> <p>12 on a daily basis?</p> <p>13 A. The cotton liners and the rubber</p> <p>14 gloves.</p> <p>15 Q. What about your smock?</p> <p>16 A. Yes, smock also. And the hair net</p> <p>17 because they would --</p> <p>18 Q. Which of these items could you wear</p> <p>19 from your home?</p> <p>20 A. Your boots.</p> <p>21 Q. That's it?</p> <p>22 A. That's it.</p> <p>23 Q. When you weren't working at the</p>   | <p style="text-align: right;">20</p> <p>1 afternoon?</p> <p>2 A. Yes.</p> <p>3 Q. How many minutes before that 4:30</p> <p>4 start would you go onto the production floor to put</p> <p>5 this stuff on?</p> <p>6 A. I really don't know what time I was</p> <p>7 on the floor. I'd say about six or seven minutes</p> <p>8 before time, to get everything on.</p> <p>9 Q. Pardon?</p> <p>10 A. About six or seven minutes at the</p> <p>11 most.</p> <p>12 Q. When you were working on the debone</p> <p>13 line, you used a knife, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And did you use scissors?</p> <p>16 A. Yes.</p> <p>17 Q. And that's why you use the mesh</p> <p>18 glove?</p> <p>19 A. Yes.</p> <p>20 Q. And were the scissors and the knife</p> <p>21 and the mesh gloves provided to you at the line?</p> <p>22 A. Yes.</p> <p>23 Q. You didn't have to go pick that stuff</p>  |
| <p style="text-align: right;">19</p> <p>1 plant, did you store any of these items at the</p> <p>2 plant?</p> <p>3 A. Only my sleeves and apron.</p> <p>4 Q. And you had a locker for that</p> <p>5 purpose?</p> <p>6 A. Yes.</p> <p>7 Q. It's my understanding that you put on</p> <p>8 all this stuff, with the exception of your boots</p> <p>9 and your ear plugs and your hair net, after you got</p> <p>10 on the debone production floor at the start of your</p> <p>11 shift; is that correct?</p> <p>12 A. Could you repeat that?</p> <p>13 Q. Sure.</p> <p>14 A. So I make sure I get it correctly.</p> <p>15 Q. It's my understanding that you put on</p> <p>16 these items that you identified for me with the</p> <p>17 exception of the boots and the hair net and ear</p> <p>18 plugs, you put everything else on when you went</p> <p>19 onto the production floor?</p> <p>20 A. Yes.</p> <p>21 Q. At the start of the shift, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And your shift started at 4:30 in the</p> | <p style="text-align: right;">21</p> <p>1 up, did you?</p> <p>2 A. When I started at the wash station, I</p> <p>3 would have to go and get my own. But on the debone</p> <p>4 line, it was provided for me.</p> <p>5 Q. Well, we are just sticking to the</p> <p>6 debone line right now. We will get to the wash</p> <p>7 station in a second.</p> <p>8 A. Okay.</p> <p>9 Q. So you didn't have to pick up</p> <p>10 anything when you worked on the debone line?</p> <p>11 A. No.</p> <p>12 Q. When you moved over to the wash</p> <p>13 station, did you go onto the floor about six or</p> <p>14 seven minutes before the start of the shift to put</p> <p>15 the stuff on as you did when you worked on the</p> <p>16 line?</p> <p>17 A. I had to go a little earlier when I</p> <p>18 went to the wash station because I had to go and</p> <p>19 get my own scissors and knife and mesh gloves.</p> <p>20 Q. Where did you have to go to get that?</p> <p>21 A. To the knife room.</p> <p>22 Q. Where was the knife room located in</p> <p>23 terms of the wash station?</p> |

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| <p style="text-align: right;">22</p> <p>1 A. Across. Way across, on the other</p> <p>2 side.</p> <p>3 Q. I'm sorry, what did you pick up there</p> <p>4 again?</p> <p>5 A. The knife, the scissors, and my</p> <p>6 glove.</p> <p>7 Q. I take it because you had to pick up</p> <p>8 a knife and scissors and a glove that you did some</p> <p>9 cutting on chickens when you were at the wash</p> <p>10 station?</p> <p>11 A. Yes.</p> <p>12 Q. So you did something more than simply</p> <p>13 wash off the stuff that had fallen on the floor?</p> <p>14 A. Yes.</p> <p>15 Q. So was part of your job to salvage</p> <p>16 some of the meat, or what were you using the knife</p> <p>17 and the scissors for?</p> <p>18 A. Like if they was cutting wings like</p> <p>19 into pieces, I would have to do that also.</p> <p>20 Whatever the line was doing, I would have to make</p> <p>21 that chicken as what they was doing on the line.</p> <p>22 Q. How many breaks did you get?</p> <p>23 A. Two.</p>  | <p style="text-align: right;">24</p> <p>1 stick to the time you were working on the debone</p> <p>2 bone line.</p> <p>3 A. Everybody was leaving.</p> <p>4 Q. But you couldn't leave until the last</p> <p>5 piece of chicken went past you, correct?</p> <p>6 A. No.</p> <p>7 Q. And some people left before you?</p> <p>8 A. Yes, the ones that was ahead of me</p> <p>9 did.</p> <p>10 Q. If you were ahead in the rotation you</p> <p>11 could leave before them, the other people behind</p> <p>12 you, couldn't you?</p> <p>13 A. Yes.</p> <p>14 Q. How did you know when to return from</p> <p>15 the break?</p> <p>16 A. The time.</p> <p>17 Q. You just looked at the clock?</p> <p>18 A. Yes. I know what time we supposed to</p> <p>19 have been back in.</p> <p>20 Q. How did you get to the plant each</p> <p>21 day?</p> <p>22 A. How did I get there?</p> <p>23 Q. Yes.</p>  |
| <p style="text-align: right;">23</p> <p>1 Q. How long are the breaks?</p> <p>2 A. Supposed to have been 30 minutes.</p> <p>3 Q. When you say "supposed to be", I</p> <p>4 suppose they weren't 30 minutes, were they?</p> <p>5 A. No.</p> <p>6 Q. How long were they?</p> <p>7 A. Not 30 minutes.</p> <p>8 Q. How much time did you get to spend in</p> <p>9 the break room?</p> <p>10 A. It varies on different times,</p> <p>11 depending on what I have to do when I get back in.</p> <p>12 Q. Explain that to me.</p> <p>13 A. Because at the wash station, you</p> <p>14 can't have your table full of product because they</p> <p>15 have to wash down and you can't have the product</p> <p>16 out. So I have to wash that. And if I leave some,</p> <p>17 I have to get back in to wash it before the line</p> <p>18 start up. So that's why my breaks were probably a</p> <p>19 little shorter.</p> <p>20 Q. How did you know when it was time for</p> <p>21 you to go on your break?</p> <p>22 A. My supervisor would let me know.</p> <p>23 Q. Did you go on your break - let's</p> | <p style="text-align: right;">25</p> <p>1 A. I drove.</p> <p>2 Q. You did. Well, not everybody did.</p> <p>3 Some people got rides.</p> <p>4 A. I drove.</p> <p>5 Q. Do you have a sticker for your car?</p> <p>6 A. Yes.</p> <p>7 Q. And when you drove up to the guard</p> <p>8 station, did you just drive through?</p> <p>9 A. If I was the first one up there, yes.</p> <p>10 Q. If the people in front of you all had</p> <p>11 stickers, everybody just drove in, didn't they?</p> <p>12 A. Some of them would pull over, even if</p> <p>13 they don't have a sticker, knowing that they can't</p> <p>14 go through without a sticker.</p> <p>15 Q. Were you searched at any time to get</p> <p>16 into the plant?</p> <p>17 A. Only about twice.</p> <p>18 Q. What were you searched for?</p> <p>19 A. Not searched, but I had to stop a</p> <p>20 couple of times because I had people riding with me</p> <p>21 that was new hires, and they had to look at their</p> <p>22 badge.</p> <p>23 Q. Besides those few times when you had</p> |

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| <p style="text-align: right;">26</p> <p>1 to stop because you had people with you, were you</p> <p>2 searched before you entered the plant? Were your</p> <p>3 possessions searched in any way?</p> <p>4 A. No.</p> <p>5 Q. Were you ever searched when you left</p> <p>6 the plant?</p> <p>7 A. You mean searched like --</p> <p>8 Q. Yes, did anybody ask to see inside</p> <p>9 your handbag?</p> <p>10 A. No.</p> <p>11 Q. When you left at the end of the day,</p> <p>12 could you just drive away?</p> <p>13 A. Yes, after I cleaned my tools.</p> <p>14 Q. Once you got in your car, you could</p> <p>15 just breeze out, correct?</p> <p>16 A. Yes.</p> <p>17 Q. What time did you try and arrive at</p> <p>18 the plant in advance of your start time?</p> <p>19 A. About 3:40 at the most.</p> <p>20 Q. Tell me what you did from 3:40 until</p> <p>21 4:30.</p> <p>22 A. Made sure I had all my gear and made</p> <p>23 sure I didn't have to go purchase anything else.</p> | <p style="text-align: right;">28</p> <p>1 A. Yes. Most times, yes.</p> <p>2 Q. And wasn't the first shift already</p> <p>3 out there?</p> <p>4 A. Yes.</p> <p>5 Q. And what would you do then once you</p> <p>6 got on the production floor?</p> <p>7 A. I would get my tools set, because we</p> <p>8 don't use the same tools as they do, first shift</p> <p>9 do.</p> <p>10 Q. When you arrived at 4:30, about what</p> <p>11 time would you walk onto the production floor?</p> <p>12 A. Excuse me?</p> <p>13 Q. Sure. When you arrived at the plant</p> <p>14 at 3:40 for your 4:30 shift, what time would you</p> <p>15 actually go out onto the production floor to make</p> <p>16 sure you got everything?</p> <p>17 A. I would say about four o'clock at the</p> <p>18 most, most days.</p> <p>19 Q. Four o'clock. So you would be on the</p> <p>20 production floor for about a half hour in advance</p> <p>21 of your shift?</p> <p>22 A. Yes.</p> <p>23 Q. And what would you do during those 30</p> |
| <p style="text-align: right;">27</p> <p>1 Q. So you had to go to supply and pick</p> <p>2 up your smock and your hair net, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Did you do that as soon as you got</p> <p>5 into the plant?</p> <p>6 A. I would put my food in my locker.</p> <p>7 Q. And did you swipe in?</p> <p>8 A. Yes.</p> <p>9 Q. And then did you go to the supply</p> <p>10 room?</p> <p>11 A. Yes.</p> <p>12 Q. And then what did you do?</p> <p>13 A. It depends on what time it was. I</p> <p>14 would go in and get my knife and gear up and</p> <p>15 everything, get my table set.</p> <p>16 Q. So you arrived at 3:40, which is</p> <p>17 about 50 minutes before your start time?</p> <p>18 A. Yes.</p> <p>19 Q. And you went, put your food away, and</p> <p>20 then you went to the supply desk, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And from the supply room you went</p> <p>23 right onto the production floor?</p>   | <p style="text-align: right;">29</p> <p>1 minutes?</p> <p>2 A. Make sure everything is set.</p> <p>3 Q. And part of what you did was put on</p> <p>4 your PPE?</p> <p>5 A. Yes.</p> <p>6 Q. And --</p> <p>7 A. And also at the wash station we did</p> <p>8 our own paperwork, so I have to go in the office</p> <p>9 and get that also.</p> <p>10 Q. So you did paperwork, too?</p> <p>11 A. Yes.</p> <p>12 Q. So is it fair to say that you had to</p> <p>13 do some prep work in advance of 4:30 to get your</p> <p>14 wash station job ready, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Were you paid for that prep time?</p> <p>17 A. No. They supposed to have it ready</p> <p>18 for me, but they didn't, so I have to do it</p> <p>19 myself.</p> <p>20 Q. Is the work you did during that prep</p> <p>21 time, is that part of your claim here?</p> <p>22 A. Yes.</p> <p>23 Q. Approximately how many minutes</p>   |



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| <p style="text-align: right;">30</p> <p>1 pre-shift were expended in doing that prep time?</p> <p>2 A. I can't recall how long it took.</p> <p>3 Q. How long did it take you to put on</p> <p>4 your smock and the other things that you put on</p> <p>5 when you worked at the wash station?</p> <p>6 A. About six, seven minutes, because I</p> <p>7 would have to wash down and all that.</p> <p>8 Q. Did you ever ask your supervisor why</p> <p>9 everything wasn't set up for you?</p> <p>10 A. I asked her a couple of times.</p> <p>11 Q. What did she say?</p> <p>12 A. She said because -- well, her</p> <p>13 statement was she be busy getting her papers ready,</p> <p>14 so if I didn't mind, would I do this, would I do</p> <p>15 that.</p> <p>16 Q. Did you tell your supervisor you</p> <p>17 wanted to be paid for that?</p> <p>18 A. Yes, I told her I wanted to be paid</p> <p>19 for it.</p> <p>20 Q. And what did she say?</p> <p>21 A. She said she will look into it and</p> <p>22 see if she can give me -- let me come in at this</p> <p>23 hour to get paid for it.</p> | <p style="text-align: right;">32</p> <p>1 Q. After you did that, what did you do,</p> <p>2 did you go over and wash off and take your stuff</p> <p>3 off and go to the debone break room?</p> <p>4 A. Yes.</p> <p>5 Q. How long did it take you after you</p> <p>6 prepped your station for your break? How long did</p> <p>7 it take you to leave the debone room and get to the</p> <p>8 break room?</p> <p>9 A. After I done took everything off?</p> <p>10 Q. Yes, ma'am.</p> <p>11 A. It ain't take me no time to get out</p> <p>12 the door.</p> <p>13 Q. How long did it take you to wash down</p> <p>14 and take the things off?</p> <p>15 A. I say about the same length of time</p> <p>16 it take to put it on, because you still got to wash</p> <p>17 down, you got to take everything off.</p> <p>18 Q. Six or seven minutes?</p> <p>19 A. Uh-huh. They always want you to</p> <p>20 sanitize it before you leave and when you come</p> <p>21 back.</p> <p>22 Q. Was there a line by the time you got</p> <p>23 to the wash station to go to on break when you --</p>              |
| <p style="text-align: right;">31</p> <p>1 Q. And what happened?</p> <p>2 A. And she never brought it up again.</p> <p>3 Q. Did you ever bring it up again?</p> <p>4 A. Yes.</p> <p>5 Q. And who did you bring it up to?</p> <p>6 A. I brought it up to her again.</p> <p>7 Q. What happened the second time?</p> <p>8 A. She said that she would look into it,</p> <p>9 the same thing.</p> <p>10 Q. And what happened?</p> <p>11 A. Nothing.</p> <p>12 Q. And did you go back to her again?</p> <p>13 A. Not after that.</p> <p>14 Q. When you were at the wash station,</p> <p>15 and the other folks on the debone line went to</p> <p>16 break, am I correct that you had to stay a little</p> <p>17 later and do some cleaning up before you could go?</p> <p>18 A. Yes, because I had to cover my tables</p> <p>19 before I leave out.</p> <p>20 Q. And how long did that take?</p> <p>21 A. To put the ice up there, cover it, it</p> <p>22 was about three minutes at the most, because I had</p> <p>23 to go get the ice.</p>  | <p style="text-align: right;">33</p> <p>1 A. No, everybody probably had to clear</p> <p>2 out by the time I leave.</p> <p>3 Q. I take it that you had to do the</p> <p>4 reverse process when your break was over?</p> <p>5 A. Yes.</p> <p>6 Q. You had to wash down, put the things</p> <p>7 on, wash them down, and it took you about the same</p> <p>8 amount of time?</p> <p>9 A. Yes.</p> <p>10 Q. Tell me what you had to do at the end</p> <p>11 of the day when you were at the wash station line.</p> <p>12 A. Talking about when everything -- wash</p> <p>13 my tools, turn it back in, make sure the tables --</p> <p>14 I had to clear off the ice. So turn in my</p> <p>15 paperwork, clock out -- well, after I wash</p> <p>16 everything, I take it off, clock out, go home.</p> <p>17 Q. How long did that take you?</p> <p>18 A. A long time because you have to go to</p> <p>19 the back of the debone to wash the tools.</p> <p>20 Q. What's a long time?</p> <p>21 A. 10, 15 minutes.</p> <p>22 Q. 10 or 15 minutes--</p> <p>23 A. Uh-huh. Because I have to look over</p> |



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| <p style="text-align: right;">34</p> <p>1 the paperwork, turn it in, go wash the tools, turn</p> <p>2 them in, wash down, then go to clock out.</p> <p>3 Q. So these post-shift wrap-up</p> <p>4 activities that I will call them that you had to</p> <p>5 do, were you paid for those?</p> <p>6 A. Talking about what I had to do before</p> <p>7 I come in.</p> <p>8 Q. The activities you just described for</p> <p>9 me.</p> <p>10 A. I thought I was getting paid for</p> <p>11 them. I was still on the clock, but obviously not.</p> <p>12 Q. The paperwork, you weren't paid for</p> <p>13 doing the paperwork, to your knowledge?</p> <p>14 A. No.</p> <p>15 Q. Did you ever ask why you weren't?</p> <p>16 A. I asked a couple of times, because we</p> <p>17 really didn't have like a supervisor at the wash</p> <p>18 station. It was a supervisor that tell us what to</p> <p>19 do, did our paperwork and time and stuff, but it</p> <p>20 wasn't like a set supervisor over there. So it was</p> <p>21 really like our job to do it, as they claim.</p> <p>22 Q. Who is "they"?</p> <p>23 A. The supervisors.</p> | <p style="text-align: right;">36</p> <p>1 A. Yes.</p> <p>2 Q. Are you sure about that?</p> <p>3 A. I am positive about that.</p> <p>4 Q. And your supervisor never gave you</p> <p>5 any extra time or credit for any extra time for</p> <p>6 that?</p> <p>7 A. No.</p> <p>8 Q. But you complained about that?</p> <p>9 A. Yes.</p> <p>10 Q. Besides the complaints that you've</p> <p>11 told us about that you made about not being paid</p> <p>12 for certain functions that you did, did you ever</p> <p>13 have any complaints about your actual paycheck,</p> <p>14 being shorted on your pay?</p> <p>15 A. Once -- well, only when we work on</p> <p>16 like Saturdays, I used to complain.</p> <p>17 Q. On overtime?</p> <p>18 A. Yes.</p> <p>19 Q. And what happened?</p> <p>20 A. It didn't look like the amount that I</p> <p>21 was supposed to have been making.</p> <p>22 Q. Did you talk to your supervisor about</p> <p>23 it?</p>   |
| <p style="text-align: right;">35</p> <p>1 Q. What was your understanding as to how</p> <p>2 the company computed the time for which you were</p> <p>3 paid?</p> <p>4 A. Our time cards.</p> <p>5 Q. The time card that you swiped in and</p> <p>6 swiped out?</p> <p>7 A. Yes.</p> <p>8 Q. Did you ever hear anybody talk about</p> <p>9 line time?</p> <p>10 A. I always hear about a Master Card,</p> <p>11 but I never knew what it was until like a couple of</p> <p>12 months after I had started working.</p> <p>13 Q. Explain to me what you found out</p> <p>14 about the Master Card and what it meant.</p> <p>15 A. When they hit the Master Card, that's</p> <p>16 when our time stops, despite whenever we clock out.</p> <p>17 Q. Okay. So you understood that you</p> <p>18 were being paid on the basis of the Master Card?</p> <p>19 A. After a while, yes.</p> <p>20 Q. These activities that you performed</p> <p>21 at the end of the day, the paperwork and so forth,</p> <p>22 were they all performed after the Master Card was</p> <p>23 swiped?</p>   | <p style="text-align: right;">37</p> <p>1 A. Yes.</p> <p>2 Q. Did he or she get back to you?</p> <p>3 A. She tried to explain how they did it,</p> <p>4 but I didn't understand it though. That was the</p> <p>5 end of it.</p> <p>6 Q. Why didn't you tell them that you</p> <p>7 didn't understand it?</p> <p>8 A. I told her -- she tried to explain it</p> <p>9 so that I could. But what she was saying wasn't</p> <p>10 making no sense of how my check was looking. So if</p> <p>11 she was saying it, then ain't no point in me going</p> <p>12 to somebody else and saying this, because they</p> <p>13 going to say the same thing.</p> <p>14 Q. While you were working there, did you</p> <p>15 keep track of any of this extra time that you have</p> <p>16 told us that you put in?</p> <p>17 A. No.</p> <p>18 Q. Have you made any calculations as to</p> <p>19 the amount of money you think you're owed from</p> <p>20 Equity?</p> <p>21 A. I used -- when I used to work the</p> <p>22 overtime, I used to calculate it. That's how I</p> <p>23 knew it wasn't right, but I didn't keep it.</p> |

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| <p style="text-align: right;">38</p> <p>1 Q. How often did you work overtime?</p> <p>2 A. We would work some Saturdays. I'm</p> <p>3 not sure how often we worked. It was like a couple</p> <p>4 of Saturdays a month.</p> <p>5 Q. Was it just that one time you a</p> <p>6 problem with your overtime check?</p> <p>7 A. No. Every time I worked overtime I</p> <p>8 have a problem with my check.</p> <p>9 Q. Every time?</p> <p>10 A. Yes.</p> <p>11 Q. Did you look at the payroll</p> <p>12 information when you got your check?</p> <p>13 A. Uh-huh.</p> <p>14 Q. You were paid weekly, right?</p> <p>15 A. Yes.</p> <p>16 Q. And you had a stub on there that</p> <p>17 showed you the amount of hours and the rate of pay?</p> <p>18 A. Yes.</p> <p>19 Q. Did it show on there the hours that</p> <p>20 you worked overtime?</p> <p>21 A. Yes.</p> <p>22 Q. And did it show on there the overtime</p> <p>23 rate of your pay?</p> | <p style="text-align: right;">40</p> <p>1 A. Clocking in late, coming from break</p> <p>2 late. That's about it, I think.</p> <p>3 MR. FRY: No further questions.</p> <p>4 MR. UNDERWOOD: I've got just a</p> <p>5 few follow-up, Shakeria.</p> <p>6</p> <p>7 EXAMINATION BY MR. UNDERWOOD:</p> <p>8 Q. As you testified to Mr. Fry, you</p> <p>9 performed some activities before the Master Card</p> <p>10 was swiped, right?</p> <p>11 A. Before it was swiped.</p> <p>12 Q. Yes. You came in and you performed</p> <p>13 some activities at work before the Master Card was</p> <p>14 swiped?</p> <p>15 A. I don't know when they swipe it.</p> <p>16 Q. That's not what I'm asking you. Did</p> <p>17 you perform any activities before they swiped the</p> <p>18 Master Card in the morning?</p> <p>19 A. I can't answer that because I don't</p> <p>20 know what -- I don't know if they --</p> <p>21 Q. Let me rephrase it for you. What was</p> <p>22 your start time on the debone line?</p> <p>23 A. 4:30.</p> |
| <p style="text-align: right;">39</p> <p>1 A. Yes.</p> <p>2 Q. And did it all add up?</p> <p>3 A. It had the hours, but it wasn't the</p> <p>4 hours that I worked because I know what time I</p> <p>5 clock out.</p> <p>6 Q. So you were --</p> <p>7 A. Going by what time I clock out.</p> <p>8 That's why my checks wasn't looking like the way I</p> <p>9 think they would look.</p> <p>10 Q. So you had a complaint because the</p> <p>11 hours that you were paid for did not conform to the</p> <p>12 hours that you clocked out in and out of; is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Were you ever disciplined while you</p> <p>16 worked there?</p> <p>17 A. Excuse me?</p> <p>18 Q. Were you ever disciplined while you</p> <p>19 were working there, were you ever written up for</p> <p>20 anything?</p> <p>21 A. Yes.</p> <p>22 Q. What sort of things were you written</p> <p>23 up for?</p>             | <p style="text-align: right;">41</p> <p>1 Q. Is it your understanding that that's</p> <p>2 the time that you first got paid was the 4:30 time?</p> <p>3 A. Yes.</p> <p>4 Q. Did you perform any activities before</p> <p>5 4:30?</p> <p>6 A. Yes.</p> <p>7 Q. So such as putting on your PPE?</p> <p>8 A. Yes.</p> <p>9 Q. You talked about some prep stuff that</p> <p>10 you did on the washing line. Did you perform those</p> <p>11 activities before your start time?</p> <p>12 A. No, I didn't start the wash station</p> <p>13 before 4:30 because someone else was there from</p> <p>14 first shift.</p> <p>15 Q. Let's just go back to the debone</p> <p>16 line. You did perform some activities before your</p> <p>17 start time of 4:30?</p> <p>18 A. Not on the debone line.</p> <p>19 Q. Is that not what you just told me?</p> <p>20 Am I getting it wrong?</p> <p>21 A. The wash station.</p> <p>22 Q. Let's go back again. I'm getting</p> <p>23 confused. Let's go back again to the debone line.</p>   |

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| <p style="text-align: right;">42</p> <p>1 What was your start time?</p> <p>2 A. 4:30.</p> <p>3 Q. Okay. That's what I just asked. Now</p> <p>4 did you perform any activities before your start</p> <p>5 time of 4:30? You didn't put on your PPE or --</p> <p>6 A. Yes, PPE. But I thought you was</p> <p>7 talking about work.</p> <p>8 Q. No, activities. Did you put on your</p> <p>9 PPE?</p> <p>10 A. Yes.</p> <p>11 Q. And that was before your start time</p> <p>12 of 4:30?</p> <p>13 A. Yes.</p> <p>14 Q. When you got your break, did you have</p> <p>15 to take off your PPE during your break time?</p> <p>16 A. Yes.</p> <p>17 Q. Did you have to put back on your PPE</p> <p>18 during your break time when you were going back to</p> <p>19 the line?</p> <p>20 A. Could you rephrase that?</p> <p>21 Q. You were on your break. You didn't</p> <p>22 have your PPE on, right?</p> <p>23 A. No.</p>              | <p style="text-align: right;">44</p> <p>1 MR. FRY: Thank you.</p> <p>2 4:36 p.m.</p> <p>3 *****</p> <p>4 FURTHER DEPONENT SAITH NOT</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">43</p> <p>1 Q. Didn't you have to put it on before</p> <p>2 you went back to the line?</p> <p>3 A. Yes.</p> <p>4 Q. Were you paid for any of that time?</p> <p>5 A. I don't think I was.</p> <p>6 Q. When you left for the day, what time</p> <p>7 did you leave for the day from the debone line? Do</p> <p>8 you remember?</p> <p>9 A. No.</p> <p>10 Q. Well, at a certain time you were</p> <p>11 clocked out from the debone line, is that right,</p> <p>12 you had to leave your station?</p> <p>13 A. Yes, on the debone line.</p> <p>14 Q. Did you have to take off your PPE</p> <p>15 after that?</p> <p>16 A. Yes.</p> <p>17 Q. And were you paid for that?</p> <p>18 A. I don't guess I was.</p> <p>19 Q. Are you requesting in this lawsuit</p> <p>20 that you be paid for that time that we just</p> <p>21 discussed?</p> <p>22 A. Yes.</p> <p>23 MR. UNDERWOOD: That's all I got.</p> | <p style="text-align: right;">45</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |

**TAB 41**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
EBONE MORRIS

\*\*\*\*\*

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|--|--|
| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of EBONE MORRIS may</p> <p>6 be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 22nd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 7-44</p> <p>4   MR. CAMP                 44-55</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   Defendant's Exhibit No. 1         20</p> <p>8   (Collective Bargaining Agreement)</p> <p>9</p> <p>10   Reporter's Certificate           56</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4   MR. JACOB A. KISER</p> <p>5   WIGGINS, CHILDS,</p> <p>6   QUINN &amp; PANTAZIS, LLC</p> <p>7   ATTORNEYS AT LAW</p> <p>8   The Kress Building</p> <p>9   301 Nineteenth Street North</p> <p>10   Birmingham, Alabama 35203</p> <p>11   (205) 314-0614</p> <p>12</p> <p>13   MR. P. MARK PETRO</p> <p>14   SCHREIBER &amp; PETRO, PC</p> <p>15   ATTORNEYS AT LAW</p> <p>16   Two Metroplex Drive</p> <p>17   Suite 250</p> <p>18   Birmingham, Alabama 35209</p> <p>19   (205) 871-5080</p> <p>20</p> <p>21   *****</p> <p>22</p> <p>23</p> |

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|---|---|
| <p>6</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4 MR. ROBERT J. CAMP</p> <p>5 THE COCHRAN FIRM, P.C.</p> <p>6 ATTORNEYS AT LAW</p> <p>7 505 North 20th Street</p> <p>8 Suite 825</p> <p>9 Birmingham, Alabama 35203</p> <p>10</p> <p>11 ON BEHALF OF THE DEFENDANT:</p> <p>12 MR. MALCOLM S. GOULD</p> <p>13 PELINO &amp; LENTZ</p> <p>14 ATTORNEYS AT LAW</p> <p>15 One Liberty Place</p> <p>16 Thirty-Second Floor</p> <p>17 1650 Market Street</p> <p>18 Philadelphia, Pennsylvania 19103</p> <p>19 (215) 665-1540</p> <p>20</p> <p>21 *****</p> <p>22</p> <p>23</p>   | <p>8</p> <p>1 Q. Good afternoon, Ms. Morris.</p> <p>2 A. Afternoon.</p> <p>3 Q. My name is Malcolm Gould. I'm an attorney</p> <p>4 with the law firm of Pelino &amp; Lentz in</p> <p>5 Philadelphia. We're attorneys for Equity Group</p> <p>6 Eufaula Division, LLC, in a lawsuit that's been</p> <p>7 filed in Federal Court in the Middle District of</p> <p>8 Alabama. You are a plaintiff in this lawsuit, so</p> <p>9 we're here today to take your deposition.</p> <p>10 As you can see, we have a court reporter</p> <p>11 here. She's going to take down my questions and</p> <p>12 your answers. For that reason, I would ask that</p> <p>13 you keep all of your answers verbal, that you say</p> <p>14 yes or no instead of shaking your head or saying</p> <p>15 uh-huh or huh-uh. That way we're sure she gets</p> <p>16 down all of your answers to my questions.</p> <p>17 I would also ask that you wait until I</p> <p>18 finish my question before you start your answer.</p> <p>19 That way she doesn't have to worry about us</p> <p>20 talking over each other, and that way you hear my</p> <p>21 entire question before you give your answer.</p> <p>22 If I ask a question and you don't understand</p> <p>23 what I'm asking, just let me know. I'll either</p> |
| <p>7</p> <p>1 I, CYNTHIA M. NOAKES, a Certified</p> <p>2 Court Reporter of Eufaula, Alabama, acting as</p> <p>3 Commissioner, certify that on this date, as</p> <p>4 provided by the Alabama Rules of Civil Procedure</p> <p>5 and the foregoing stipulation of counsel, there</p> <p>6 came before me at the Law Offices of WILLIAMS,</p> <p>7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>8 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>9 3:45 p.m., EBONE MORRIS, witness in the above</p> <p>10 cause, for oral examination, whereupon the</p> <p>11 following proceedings were had:</p> <p>12</p> <p>13 EBONE MORRIS,</p> <p>14 being first duly sworn, was examined and</p> <p>15 testified as follows:</p> <p>16</p> <p>17 THE COURT REPORTER: Usual</p> <p>18 stipulations?</p> <p>19 MR. KISER: Yes.</p> <p>20 MR. GOULD: Yes.</p> <p>21</p> <p>22 EXAMINATION</p> <p>23 BY MR. GOULD:</p> | <p>9</p> <p>1 repeat the question or try to ask the question in</p> <p>2 a different way so that it's not so confusing.</p> <p>3 A. Okay.</p> <p>4 Q. If you do answer my question, I'm going to</p> <p>5 assume that you understood it and that you are</p> <p>6 answering truthfully to the best of your ability.</p> <p>7 Okay?</p> <p>8 A. Okay.</p> <p>9 Q. I don't anticipate that the deposition will</p> <p>10 take long, but if for some reason you need to take</p> <p>11 a break, just let me know; we can certainly take a</p> <p>12 break; that's not a problem.</p> <p>13 A. Okay.</p> <p>14 Q. Okay. Ma'am, can you state your full name</p> <p>15 for the record, please?</p> <p>16 A. Ebone Sharita Morris.</p> <p>17 Q. And, Ms. Morris, what's your home address?</p> <p>18 A. 16 South Street, Clayton, Alabama 36016.</p> <p>19 Q. Are you currently employed?</p> <p>20 A. Yes.</p> <p>21 Q. And where do you work?</p> <p>22 A. Equity Group.</p> <p>23 Q. How long have you worked at the plant?</p>  |

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|--|---|
| <p style="text-align: right;">10</p> <p>1 A. A year and a half.</p> <p>2 Q. And have you worked at the plant previous to</p> <p>3 this year and a half that you have been employed?</p> <p>4 A. No.</p> <p>5 Q. So that's the only time that you've worked</p> <p>6 at the plant?</p> <p>7 A. Yes.</p> <p>8 Q. And in which department are you currently</p> <p>9 employed?</p> <p>10 A. Evisceration.</p> <p>11 Q. And what is your position?</p> <p>12 A. USDA trimmer.</p> <p>13 Q. And have you worked in that position the</p> <p>14 entire time you've been at the plant?</p> <p>15 A. No.</p> <p>16 Q. What other positions have you worked in?</p> <p>17 A. DSI.</p> <p>18 Q. And are those the only two positions you've</p> <p>19 worked in?</p> <p>20 A. Yes.</p> <p>21 Q. How long did you work in DSI?</p> <p>22 A. Six months.</p> <p>23 Q. Were those the first six months you worked</p> | <p style="text-align: right;">12</p> <p>1 Q. That contract was effective from March 1,</p> <p>2 2008; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Now, when you talk about these issues of</p> <p>5 wanting to get paid for time when you're working</p> <p>6 but not being paid, can you explain to me what you</p> <p>7 mean by that?</p> <p>8 A. When it's time for us to get off, we're</p> <p>9 still on the line working; they have already</p> <p>10 stopped our time, but we're still working.</p> <p>11 Q. Can you give me an example of what you mean</p> <p>12 by that?</p> <p>13 A. I'm still on the line working. Birds are</p> <p>14 still coming and we're still working, but they</p> <p>15 have already stopped our time. They have already</p> <p>16 clocked us out.</p> <p>17 Q. And is there anything else that you believe</p> <p>18 is included within your claims in this lawsuit?</p> <p>19 A. No.</p> <p>20 MR. KISER: I'm going to object. She</p> <p>21 may not know every single claim or anything that's</p> <p>22 involved with this lawsuit. She's giving a lay</p> <p>23 opinion. She can't give a legal conclusion as to</p> |
| <p style="text-align: right;">11</p> <p>1 at the plant?</p> <p>2 A. Yes.</p> <p>3 Q. And then you've worked in evis as a USDA</p> <p>4 trimmer for approximately a year?</p> <p>5 A. Yes.</p> <p>6 Q. Now, you understand that you are a plaintiff</p> <p>7 in this lawsuit, correct?</p> <p>8 A. Correct.</p> <p>9 Q. What is your understanding as to what the</p> <p>10 lawsuit is about?</p> <p>11 A. Yes.</p> <p>12 Q. What do you believe is at issue in this</p> <p>13 lawsuit?</p> <p>14 A. We're wanting to get paid for the time that</p> <p>15 we're working and they have already stopped our</p> <p>16 time.</p> <p>17 Q. Now, you're a member of the union bargaining</p> <p>18 committee, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And you sat on the committee that just</p> <p>21 negotiated the last union contract; is that</p> <p>22 correct?</p> <p>23 A. Correct.</p>           | <p style="text-align: right;">13</p> <p>1 what all is involved here.</p> <p>2 MR. GOULD: Fine. I just asked her for</p> <p>3 her understanding.</p> <p>4 Q. Do you believe that also included within</p> <p>5 this lawsuit are claims for time spent putting on</p> <p>6 or taking off or rinsing any sort of work clothing</p> <p>7 or equipment?</p> <p>8 A. I'm not understandings what you're saying.</p> <p>9 Q. Do you have an understanding as to whether</p> <p>10 there are claims for what I would call donning and</p> <p>11 doffing in this lawsuit?</p> <p>12 MR. KISER: Object. Legal definition.</p> <p>13 Q. Do you understand what I mean when I say</p> <p>14 donning and doffing?</p> <p>15 A. No, I don't.</p> <p>16 Q. Okay. I'll ask it differently.</p> <p>17 Do you believe that included within this</p> <p>18 lawsuit are claims for time spent putting on</p> <p>19 things like a smock, apron, sleeves, any of those</p> <p>20 types of items that, as an employee, you might</p> <p>21 wear out on the production floor?</p> <p>22 A. Yes.</p> <p>23 Q. You believe that that's part of the lawsuit</p>                            |

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|---|--|
| <p style="text-align: right;">14</p> <p>1 as well?</p> <p>2 A. Yes.</p> <p>3 Q. And the same thing for taking those items</p> <p>4 off?</p> <p>5 A. Yes.</p> <p>6 Q. Other than meeting with your attorneys</p> <p>7 today, have you attended any meetings where people</p> <p>8 were discussing this lawsuit?</p> <p>9 A. No.</p> <p>10 Q. Did you meet with your attorneys at all to</p> <p>11 prepare for your deposition today?</p> <p>12 A. No.</p> <p>13 Q. Did you meet with your attorneys today to</p> <p>14 prepare for your deposition?</p> <p>15 A. Yes.</p> <p>16 Q. And that's the only time that you've met</p> <p>17 with your attorneys?</p> <p>18 A. Yes.</p> <p>19 Q. And how long have you been a member of the</p> <p>20 union bargaining committee?</p> <p>21 A. A year and a half.</p> <p>22 Q. So you've been a member of the union</p> <p>23 bargaining committee since you started working at</p> | <p style="text-align: right;">16</p> <p>1 that you've started working at the plant?</p> <p>2 A. Yes.</p> <p>3 Q. Now, in connection with the negotiation of</p> <p>4 the current union contract with the plant, did you</p> <p>5 have any discussions amongst the people in the</p> <p>6 bargaining committee or with representatives of</p> <p>7 the international union relating to the time that</p> <p>8 employees were spending putting on or taking off</p> <p>9 their clothing or equipment?</p> <p>10 A. I don't understand the question.</p> <p>11 Q. Okay. You recall that in the current</p> <p>12 contract there is a provision under which</p> <p>13 employees are paid an additional three minutes per</p> <p>14 day for time spent putting on, taking off, or</p> <p>15 washing clothing; is that correct?</p> <p>16 A. I don't know.</p> <p>17 Q. During the time leading up to and actually</p> <p>18 during the negotiations of this current union</p> <p>19 contract, did you have an opportunity to sit down</p> <p>20 with other people on the bargaining committee or</p> <p>21 representatives from the international union</p> <p>22 relating to concerns that you wanted to raise in</p> <p>23 the recent negotiations?</p> |
| <p style="text-align: right;">15</p> <p>1 the plant?</p> <p>2 A. Yes.</p> <p>3 Q. And you also serve as a union steward; is</p> <p>4 that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Which shift do you work?</p> <p>7 A. First.</p> <p>8 Q. Day shift?</p> <p>9 A. Yes.</p> <p>10 Q. What time does your shift run?</p> <p>11 A. Six to three.</p> <p>12 Q. Did you work day shift when you worked in</p> <p>13 DSI?</p> <p>14 A. Yes.</p> <p>15 Q. And what time did your shift run then?</p> <p>16 A. 7:30 to 4:30.</p> <p>17 Q. Ms. Morris, during the entire time that you</p> <p>18 have worked at the plant, have employees been</p> <p>19 specifically paid for the time that they are</p> <p>20 putting on or taking off their items of clothing</p> <p>21 or equipment?</p> <p>22 A. No.</p> <p>23 Q. And you've been aware of that since the time</p>   | <p style="text-align: right;">17</p> <p>1 A. I don't understand your question.</p> <p>2 Q. All right. Do you recall sitting in on</p> <p>3 bargaining sessions relating to the current union</p> <p>4 contract, the most recent union contract?</p> <p>5 A. No.</p> <p>6 Q. Did you attend sessions where you sat in a</p> <p>7 room with other people who were representing the</p> <p>8 employees and people from the plant, including an</p> <p>9 attorney from my firm?</p> <p>10 A. Yes.</p> <p>11 Q. Howard Rosenthal, do you remember meeting</p> <p>12 him?</p> <p>13 A. Yes.</p> <p>14 Q. So you sat in on those sessions; is that</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. Outside of sitting in those sessions with</p> <p>18 people from the company, did you also have</p> <p>19 sessions with just other people on the union</p> <p>20 committee and people from the international union?</p> <p>21 A. Yes.</p> <p>22 Q. And during those particular meetings, did</p> <p>23 you have a discussion as to issues which the local</p>   |

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| <p style="text-align: right;">18</p> <p>1 union was concerned about and wanted to raise in</p> <p>2 the negotiations?</p> <p>3 A. Yes.</p> <p>4 Q. And did you have a discussion relating to</p> <p>5 payment for time spent putting on or taking off</p> <p>6 these items of clothing or equipment?</p> <p>7 A. Yes.</p> <p>8 Q. Now, was Jackie Davis on the union</p> <p>9 bargaining committee as well?</p> <p>10 A. Yes.</p> <p>11 Q. She's a chief steward; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know for how long she's been on the</p> <p>14 union bargaining committee?</p> <p>15 A. I want to say as long as the plant's been</p> <p>16 open. That's about ten years.</p> <p>17 Q. Now, you will admit that prior to beginning</p> <p>18 the negotiations, there was a policy in place at</p> <p>19 the plant of not specifically paying for time</p> <p>20 spent putting on or taking off those items of</p> <p>21 clothing or equipment; is that correct?</p> <p>22 A. I don't understand what you're saying.</p> <p>23 Q. All right. At the time that the</p> | <p style="text-align: right;">20</p> <p>1 MR. GOULD: Yes, sir.</p> <p>2 MR. CAMP: Was that in March?</p> <p>3 MR. GOULD: Yes.</p> <p>4 Q. And do you recall whether, in connection</p> <p>5 with the bargaining sessions that occurred with</p> <p>6 the most recent contract, whether there was any</p> <p>7 sort of provision added for the payment for time</p> <p>8 spent putting on or taking off clothing or</p> <p>9 equipment?</p> <p>10 A. No.</p> <p>11 Q. You don't recall?</p> <p>12 A. No.</p> <p>13 (Defendant's Exhibit No. 1 was</p> <p>14 marked for identification and a</p> <p>15 copy of the same is attached</p> <p>16 hereto.)</p> <p>17 Q. Ms. Morris, I'm going to show you what's</p> <p>18 been marked as Morris Exhibit 1. For purposes of</p> <p>19 identification, it's a document with Bates numbers</p> <p>20 that run E 5975 through E 6015. It's a document</p> <p>21 entitled "Agreement by and between Equity Group -</p> <p>22 Eufaula Division, LLC, and the Detail, Wholesale</p> <p>23 and Department Store Union, Effective March 1,</p> |
| <p style="text-align: right;">19</p> <p>1 negotiations on the current contract started, is</p> <p>2 it your understanding that the employees were not</p> <p>3 paid specifically for time spent putting on or</p> <p>4 taking off their items of clothing or equipment?</p> <p>5 A. Yes.</p> <p>6 Q. And you were specifically aware of that,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And did you have an opportunity to discuss</p> <p>10 that particular issue of employees being paid for</p> <p>11 time that they put on or take off that clothing or</p> <p>12 equipment with Ms. Davis?</p> <p>13 A. Yes.</p> <p>14 Q. What did Ms. Davis tell you?</p> <p>15 A. She really didn't go into details with me.</p> <p>16 She told me she would get back with me. But she</p> <p>17 never came back and sat down and explained it to</p> <p>18 me.</p> <p>19 MR. CAMP: Malcolm, what year contract</p> <p>20 are we talking about?</p> <p>21 MR. GOULD: The current contract.</p> <p>22 MR. CAMP: The 2008? The one that was</p> <p>23 just signed?</p>                           | <p style="text-align: right;">21</p> <p>1 2008, to March 1, 2011."</p> <p>2 Now, Ms. Morris, take a second to look over</p> <p>3 the document. And then after you've had a second</p> <p>4 to familiarize yourself with it, tell me whether</p> <p>5 you've seen this document before.</p> <p>6 (The witness examines the</p> <p>7 document.)</p> <p>8 Q. Ms. Morris, you don't have to read the whole</p> <p>9 document; I just wanted you to take a look at it</p> <p>10 and see if you're familiar with it.</p> <p>11 A. Okay. But I have not received the contract</p> <p>12 since we've done it. That's why I was looking</p> <p>13 over it.</p> <p>14 MR. CAMP: Can we take a break for one</p> <p>15 minute? I want to talk to Petro.</p> <p>16 MR. GOULD: Okay.</p> <p>17 (A brief recess was taken.)</p> <p>18 (BY MR. GOULD)</p> <p>19 Q. Okay. Ms. Morris, have you had an</p> <p>20 opportunity to look over what's been marked as</p> <p>21 Morris Exhibit 1?</p> <p>22 A. Yes.</p> <p>23 Q. And do you recognize this document?</p>                                |

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| <p style="text-align: right;">22</p> <p>1 A. Yes.</p> <p>2 Q. Turn to page 28 of the document -- excuse me</p> <p>3 -- 29.</p> <p>4 A. (Witness complies.)</p> <p>5 Q. And is that your signature at the bottom of</p> <p>6 the page?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Above your name?</p> <p>9 A. Yes.</p> <p>10 Q. And does this appear to you to be the</p> <p>11 collective bargaining agreement that was</p> <p>12 negotiated leading up to your signing of the</p> <p>13 document?</p> <p>14 A. Yes.</p> <p>15 Q. And you were involved in those negotiations,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. And does this agreement appear to accurately</p> <p>19 include everything that was agreed to at the</p> <p>20 bargaining sessions?</p> <p>21 A. Yes.</p> <p>22 Q. If you'll turn to page 21 of that document.</p> <p>23 A. (Witness complies.)</p>   | <p style="text-align: right;">24</p> <p>1 Q. All right. Can you look at 12.5(B)? It</p> <p>2 says, "All employees shall be paid an additional 3</p> <p>3 minutes per day, at their regular rate, for</p> <p>4 clothes changing and cleaning time, in addition to</p> <p>5 any pay for hours worked. Such payment shall be</p> <p>6 paid at the employee's normal hourly rate."</p> <p>7 Do you recall if that was a new provision</p> <p>8 that was added into that particular provision?</p> <p>9 A. We don't change clothes. It's the PPEs. We</p> <p>10 don't change clothes.</p> <p>11 Q. Okay. Do you do any clothes changing at the</p> <p>12 plant?</p> <p>13 A. No. We don't change clothes; we have PPEs.</p> <p>14 Q. Okay. Then what did it mean to you when</p> <p>15 that particular provision was being added in, that</p> <p>16 employees were being paid an additional three</p> <p>17 minutes for clothes changing and cleaning?</p> <p>18 A. I don't understand what you're saying.</p> <p>19 Q. Well, I'm asking you if -- you're saying</p> <p>20 that there's no clothes changing at the plant; is</p> <p>21 that right?</p> <p>22 A. Right.</p> <p>23 Q. Now, you had indicated previously that you</p> |
| <p style="text-align: right;">23</p> <p>1 Q. If you could look at provision 12.5 entitled</p> <p>2 Line Time, please. 12.5(A) indicates, "All</p> <p>3 employees will be paid according to the hours of</p> <p>4 work indicated by the Master Line Time Card."</p> <p>5 What is your understanding, as a member of</p> <p>6 the union bargaining committee, that this</p> <p>7 provision meant when you signed it?</p> <p>8 A. I don't know what you're saying.</p> <p>9 Q. All right. You were aware, prior to signing</p> <p>10 this contract, that this contract included this</p> <p>11 particular provision 12.5(A), correct?</p> <p>12 A. Yes.</p> <p>13 Q. And you read this provision before signing</p> <p>14 the contract?</p> <p>15 A. Yes.</p> <p>16 Q. Do you understand what it means when it says</p> <p>17 that all employees will be paid according to the</p> <p>18 hours of work indicated by the Master Line Time</p> <p>19 Card?</p> <p>20 A. Could you repeat the question, please?</p> <p>21 Q. Let me word it differently. What is your</p> <p>22 understanding of what 12.5(A) means?</p> <p>23 A. I don't understand.</p> | <p style="text-align: right;">25</p> <p>1 had discussed with the union bargaining committee</p> <p>2 that --</p> <p>3 MR. GOULD: Strike that. Let's start</p> <p>4 this question over again.</p> <p>5 Q. You had testified previously that you had</p> <p>6 discussed within the union bargaining committee</p> <p>7 the issue of employees not being paid for the time</p> <p>8 that they spent putting on or taking off their</p> <p>9 work clothing or equipment; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. And you indicated that you discussed this in</p> <p>12 and amongst both the union delegates from the</p> <p>13 plant as well as the international union</p> <p>14 representatives; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Now, do you recall what the reason was that</p> <p>17 this paragraph 12.5(B) was added to the contract?</p> <p>18 A. I don't know.</p> <p>19 Q. But you did understand before the contract</p> <p>20 was signed that employees were not being paid for</p> <p>21 the time that they were spending putting on or</p> <p>22 taking off any work clothes or equipment, correct?</p> <p>23 A. Yes.</p>  |

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| <p style="text-align: right;">26</p> <p>1 MR. CAMP: She filed the lawsuit. I</p> <p>2 would think she did.</p> <p>3 Q. Now, during the time that you served as a</p> <p>4 union steward, there was a previous collective</p> <p>5 bargaining agreement in place as well, correct?</p> <p>6 A. I don't understand.</p> <p>7 Q. Was there a collective bargaining agreement</p> <p>8 in place that predated this March 1, 2008</p> <p>9 contract?</p> <p>10 A. Yes.</p> <p>11 Q. So there was one in place for the period</p> <p>12 prior to this agreement; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you were a union steward while that</p> <p>15 contract was in place as well; is that correct?</p> <p>16 A. No.</p> <p>17 Q. You were not a union steward prior to March</p> <p>18 1 of 2008?</p> <p>19 A. No.</p> <p>20 Q. I thought you previously told me that you</p> <p>21 had been a union steward for a year and a half.</p> <p>22 A. No. You asked me was I a union member.</p> <p>23 Q. You've been a union member for a year and a</p> | <p style="text-align: right;">28</p> <p>1 Q. Do you recall whether or not provision</p> <p>2 12.5(B) was in the previous union contract?</p> <p>3 A. I don't know.</p> <p>4 Q. Now, you previously indicated to me that you</p> <p>5 work in evis as a USDA trimmer currently; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Are there items of equipment or clothing</p> <p>9 that you have to wear when you are out on the</p> <p>10 production line?</p> <p>11 A. Yes.</p> <p>12 Q. And can you list those for me?</p> <p>13 A. Hair net, earplugs, apron, smock, boots, or</p> <p>14 shoe covers some wear, safety glasses.</p> <p>15 Q. I'm just talking about what you wear.</p> <p>16 A. All right. That's it. Arm guard and chain</p> <p>17 glove and cotton liners and blue glove.</p> <p>18 Q. Do you wear sleeves?</p> <p>19 A. No.</p> <p>20 Q. Do you wear safety glasses?</p> <p>21 A. No.</p> <p>22 Q. Now, during the course of a normal shift, do</p> <p>23 you rotate between different positions on the</p> |
| <p style="text-align: right;">27</p> <p>1 half?</p> <p>2 A. Yes.</p> <p>3 Q. How long have you been a union steward?</p> <p>4 A. Six months.</p> <p>5 Q. Do you recall when you first became a union</p> <p>6 steward?</p> <p>7 A. No, I don't.</p> <p>8 Q. All right. Six months ago takes us past</p> <p>9 March of 2008, going backwards, doesn't it?</p> <p>10 A. Yes, it does.</p> <p>11 Q. So were you a union steward prior to March 1</p> <p>12 of 2008?</p> <p>13 A. Yes.</p> <p>14 Q. So you were a union steward during the time</p> <p>15 that the previous contract was in place?</p> <p>16 A. It was in place before I became a union</p> <p>17 steward.</p> <p>18 Q. Okay. So you didn't serve on the bargaining</p> <p>19 committee for the previous contract?</p> <p>20 A. Correct.</p> <p>21 Q. But you were a union steward while that</p> <p>22 contract was in place?</p> <p>23 A. Yes.</p>   | <p style="text-align: right;">29</p> <p>1 evisceration line?</p> <p>2 A. Yes.</p> <p>3 Q. What other positions would you rotate to?</p> <p>4 A. Open cut or to the mirror.</p> <p>5 Q. It's called a mirror trimmer; is that what</p> <p>6 that's called?</p> <p>7 A. Yes.</p> <p>8 Q. And you normally rotate to each of those</p> <p>9 positions in your normal shift?</p> <p>10 A. Yes.</p> <p>11 Q. So you'll start off at the position of USDA</p> <p>12 trimmer?</p> <p>13 A. Sometimes.</p> <p>14 Q. And other times you'll start in one of these</p> <p>15 other positions?</p> <p>16 A. Yes.</p> <p>17 Q. But you'll rotate to each one of those</p> <p>18 positions during your shift?</p> <p>19 A. Yes.</p> <p>20 Q. And do you wear the same equipment or</p> <p>21 clothing for each of those positions?</p> <p>22 A. Yes.</p> <p>23 Q. You don't wear anything different?</p>   |

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| <p style="text-align: right;">30</p> <p>1 A. No.</p> <p>2 Q. Can you describe for me what the job</p> <p>3 responsibilities are in the position of open cut?</p> <p>4 A. Making sure the bird is open.</p> <p>5 Q. When you say "open," can you tell me what</p> <p>6 you mean?</p> <p>7 A. Where the machine will pull the viscera out</p> <p>8 of the bird; make sure the viscera would be pulled</p> <p>9 out of the bird.</p> <p>10 Q. So you make sure it's open before it enters</p> <p>11 the machine?</p> <p>12 A. The machine opens the bird; but if it misses</p> <p>13 it and doesn't open it, then I will have to open</p> <p>14 it.</p> <p>15 Q. So you're checking it after it comes out of</p> <p>16 the machine?</p> <p>17 A. Yes.</p> <p>18 Q. And can you describe what the mirror trimmer</p> <p>19 does?</p> <p>20 A. Cut the bad wings off, or the bad legs.</p> <p>21 Q. And that's one of those positions that's</p> <p>22 towards the end of the line, over by the salvage</p> <p>23 area?</p> | <p style="text-align: right;">32</p> <p>1 sort of security that you have to clear?</p> <p>2 A. No.</p> <p>3 Q. Is there a guard shack on the driveway?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have to stop and be searched?</p> <p>6 A. No.</p> <p>7 Q. You have a sticker; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And as long as you have that sticker on your</p> <p>10 car, you can drive through?</p> <p>11 A. Yes.</p> <p>12 Q. After you get to the parking lot, is there</p> <p>13 any other security that you have to go through?</p> <p>14 A. No.</p> <p>15 Q. There's no metal detectors or turnstiles?</p> <p>16 A. No.</p> <p>17 Q. You can just walk right into the plant?</p> <p>18 A. Yes.</p> <p>19 Q. On a normal day, after you park your car --</p> <p>20 and right now we're just going to focus on your</p> <p>21 current position in evisceration.</p> <p>22 What time do you normally arrive at the</p> <p>23 plant?</p> |
| <p style="text-align: right;">31</p> <p>1 A. Yes. After the birds leave the USDA stands.</p> <p>2 Q. Right. I understand. And you work with a</p> <p>3 knife or scissors in each one of those positions?</p> <p>4 A. Yes.</p> <p>5 Q. Now, during the time you've been employed at</p> <p>6 the plant, has this equipment that you've worn in</p> <p>7 this particular department been the same?</p> <p>8 A. Yes.</p> <p>9 Q. And during the time that you've been</p> <p>10 employed at the plant, have you been able to wear</p> <p>11 your boots from home?</p> <p>12 A. Yes.</p> <p>13 Q. And that's been the case throughout the</p> <p>14 entire time you've been employed at the plant?</p> <p>15 A. Yes.</p> <p>16 Q. Are there any other of these items that you</p> <p>17 can wear from home?</p> <p>18 A. No.</p> <p>19 Q. Just your boots?</p> <p>20 A. Yes.</p> <p>21 Q. Now, do you normally drive yourself to work?</p> <p>22 A. Yes.</p> <p>23 Q. When you arrive at the plant, is there any</p>       | <p style="text-align: right;">33</p> <p>1 A. 5:30.</p> <p>2 Q. And when you arrive at the parking lot, do</p> <p>3 you normally just get out of your car?</p> <p>4 A. No.</p> <p>5 Q. What do you do?</p> <p>6 A. I find my -- get my stuff together, then go</p> <p>7 on the inside of the plant.</p> <p>8 Q. So you take these items of equipment or</p> <p>9 clothing home with you?</p> <p>10 A. Sometimes.</p> <p>11 Q. And if you've taken them home with you, then</p> <p>12 you get them out of your car to take them into the</p> <p>13 plant?</p> <p>14 A. Yes.</p> <p>15 Q. Is there a locker room at the plant?</p> <p>16 A. Yes, there is.</p> <p>17 Q. Do you have a locker?</p> <p>18 A. Yes.</p> <p>19 Q. And you could store them in your locker if</p> <p>20 you wanted to?</p> <p>21 A. Yes.</p> <p>22 Q. Once you gather your items and leave your</p> <p>23 car, what's the next thing you do?</p>                             |



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| <p style="text-align: right;">34</p> <p>1 A. I go into the building and go in the break<br/>2 room and clock in. If my stuff is in my locker, I<br/>3 get my stuff out of my locker and go to supply and<br/>4 get my smock or other items that I need.<br/>5 Q. Out of these items that you identified for<br/>6 me, are there any that you will always get a new<br/>7 one every day?<br/>8 A. No.<br/>9 Q. Do you normally get a new smock every day?<br/>10 A. Yes.<br/>11 Q. Other than that, do you replace all of your<br/>12 other items every single day?<br/>13 A. No. Every other day.<br/>14 Q. So you replace your apron every other day?<br/>15 A. No.<br/>16 Q. There's some items you would replace every<br/>17 other day?<br/>18 A. Yes.<br/>19 Q. Which ones are those?<br/>20 A. My cotton liners, blue gloves, hair nets.<br/>21 Q. Are you required to replace those every<br/>22 other day?<br/>23 A. No.</p> | <p style="text-align: right;">36</p> <p>1 A. No.<br/>2 Q. You sit by yourself?<br/>3 A. Yes.<br/>4 Q. And then at five 'til -- that's five 'til<br/>5 six? --<br/>6 A. Yes.<br/>7 Q. -- what do you do?<br/>8 A. Go into the production area.<br/>9 Q. And at that time, you're wearing your boots<br/>10 and your hair net?<br/>11 A. Yes.<br/>12 Q. And your earplugs?<br/>13 A. Yes.<br/>14 Q. Can you describe for me what you do as you<br/>15 enter the production area?<br/>16 A. I clean and sanitize my boots before I go<br/>17 all the way into the production floor. Then I<br/>18 wash the soap and stuff out of my boots, go to the<br/>19 smock rack and put my smock and everything else<br/>20 on.<br/>21 Q. Do you put your chain glove on then?<br/>22 A. No. I have to go to my line leader to get<br/>23 my chain glove.</p>  |
| <p style="text-align: right;">35</p> <p>1 Q. That's just your choice?<br/>2 A. Yes.<br/>3 Q. Where do you normally clock in?<br/>4 A. In debone break room.<br/>5 Q. And then you indicated after you do that, if<br/>6 your equipment is in your locker, you'll get it<br/>7 from there?<br/>8 A. Yes.<br/>9 Q. And if that clothing or equipment is in your<br/>10 locker, do you take it into the break room.<br/>11 A. Yes.<br/>12 Q. Do you put anything on after you clock in<br/>13 but before you go to the supply desk?<br/>14 A. My earplugs and hair net.<br/>15 Q. After you go to the supply area, what do you<br/>16 do next?<br/>17 A. I go back to the break room until five 'til.<br/>18 Q. And do you get anything to eat or anything<br/>19 to drink?<br/>20 A. No.<br/>21 Q. You just sit there?<br/>22 A. Yes.<br/>23 Q. And do you talk with other employees?</p>  | <p style="text-align: right;">37</p> <p>1 Q. Does your line leader have your chain glove<br/>2 out by the evis line?<br/>3 A. Yes.<br/>4 Q. What about knife or scissors? Do you have<br/>5 to bring that from home or keep that in your<br/>6 locker?<br/>7 A. No.<br/>8 Q. Are those given to you out on the line?<br/>9 A. They already be on the line.<br/>10 Q. You're not responsible for going to a knife<br/>11 room or anything like that?<br/>12 A. No.<br/>13 Q. So after you put on the rest of your<br/>14 clothing or equipment, what do you do next?<br/>15 A. I go to my line leader to get my chain glove<br/>16 and find out what station I need to go to.<br/>17 Q. And then you go to your position on the<br/>18 line?<br/>19 A. Yes.<br/>20 Q. Approximately how long does it take you from<br/>21 the time you enter the production doors to get to<br/>22 your position on the line?<br/>23 A. I'd say about five minutes.</p> |



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| <p style="text-align: right;">38</p> <p>1 Q. During the course of your shift, do you get</p> <p>2 any breaks?</p> <p>3 A. Yes.</p> <p>4 Q. How many breaks do you get?</p> <p>5 A. Two.</p> <p>6 Q. And how long are those breaks?</p> <p>7 A. Supposedly 30 minutes.</p> <p>8 Q. Now, when is your first break?</p> <p>9 A. 8:30.</p> <p>10 Q. And when is your second break?</p> <p>11 A. 11:30.</p> <p>12 Q. And how do you know when it is time for you</p> <p>13 to leave for your break?</p> <p>14 A. When there's no more birds coming and</p> <p>15 everybody else is leaving.</p> <p>16 Q. And when do you actually leave for break?</p> <p>17 A. When the last bird has came to my station.</p> <p>18 Q. And when the last bird passes your station</p> <p>19 before your first break, what do you do then?</p> <p>20 A. I put my knife down, turn in my chain glove,</p> <p>21 and go to the smock rack and take off my PPEs.</p> <p>22 Q. Now, are there any items that you don't have</p> <p>23 to take off before leaving the production floor?</p> | <p style="text-align: right;">40</p> <p>1 A. Five minutes.</p> <p>2 Q. And once you exit the production area into</p> <p>3 the hallway, what do you do then?</p> <p>4 A. Go to the break room.</p> <p>5 Q. And what do you do out in the break room?</p> <p>6 A. I get me something to eat.</p> <p>7 Q. How do you know when it's time to come back</p> <p>8 from break?</p> <p>9 A. Because we only get 30 minutes and it's time</p> <p>10 to go back in.</p> <p>11 Q. Do you watch the clock?</p> <p>12 A. Yes.</p> <p>13 Q. And you know what time you left?</p> <p>14 A. Yes.</p> <p>15 Q. And you know what time you have to be back?</p> <p>16 A. Yes.</p> <p>17 Q. And I believe you said that your first break</p> <p>18 is at 8:30?</p> <p>19 A. Yes.</p> <p>20 Q. When do you normally leave to return to the</p> <p>21 line?</p> <p>22 A. Five minutes until nine.</p> <p>23 Q. And can you describe for me what you do from</p>   |
| <p style="text-align: right;">39</p> <p>1 A. Could you repeat that question?</p> <p>2 Q. Sure. Are there any items that you do not</p> <p>3 have to take off before leaving the production</p> <p>4 area?</p> <p>5 A. Yes.</p> <p>6 Q. And what are those?</p> <p>7 A. Hair net and earplugs.</p> <p>8 Q. And your boots?</p> <p>9 A. And boots.</p> <p>10 Q. Do you take everything else off?</p> <p>11 A. Yes.</p> <p>12 Q. Do you do anything else?</p> <p>13 A. No.</p> <p>14 Q. Approximately how long does it take you from</p> <p>15 the time the last bird passes your position on the</p> <p>16 line until the time that you are walking back out</p> <p>17 of the production doors?</p> <p>18 A. I don't understand.</p> <p>19 Q. Okay. How long does it take you from the</p> <p>20 time that last bird passes your position, when you</p> <p>21 are getting ready to leave on your first break,</p> <p>22 until the time that you are actually exiting the</p> <p>23 production area out into the hallway?</p>  | <p style="text-align: right;">41</p> <p>1 the time you leave the break room until the time</p> <p>2 you get back to your position on the line?</p> <p>3 A. Go back to the production area, put on my</p> <p>4 PPEs, everything I'm supposed to have on, get my</p> <p>5 chain glove, ask my line leader where I'm supposed</p> <p>6 to go, and go to my designated area.</p> <p>7 Q. Similar to what you do when you were going</p> <p>8 out at the beginning of your shift?</p> <p>9 A. Yes.</p> <p>10 Q. And approximately how long does it take you</p> <p>11 from the time that you leave the break room until</p> <p>12 the time you're back on the production line?</p> <p>13 A. Five minutes.</p> <p>14 Q. And is that routine normally the same for</p> <p>15 your second break?</p> <p>16 A. Yes.</p> <p>17 Q. You do the same things before and after?</p> <p>18 A. Yes.</p> <p>19 Q. Takes about the same amount of time?</p> <p>20 A. Yes.</p> <p>21 Q. And how do you know when your shift is over?</p> <p>22 A. Because the second shift is coming in and I</p> <p>23 ask somebody what time it is.</p> |

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| <p style="text-align: right;">42</p> <p>1 Q. And when are you able to leave your position</p> <p>2 on the line?</p> <p>3 A. When the last bird comes.</p> <p>4 Q. Just like when you would leave for break?</p> <p>5 A. Yes.</p> <p>6 Q. And then someone steps up onto the line to</p> <p>7 take your position?</p> <p>8 A. Sometimes.</p> <p>9 Q. Can you leave before somebody reports to</p> <p>10 take your position?</p> <p>11 A. Yes.</p> <p>12 Q. You just need to wait until the last bird</p> <p>13 passes your position?</p> <p>14 A. Yes.</p> <p>15 Q. And then what do you do after the last bird</p> <p>16 passes your position?</p> <p>17 A. I go turn in my chain glove, wash down, take</p> <p>18 my stuff off, put it together, leave out the</p> <p>19 production area, go clock out. And sometimes I'll</p> <p>20 put my stuff in my locker.</p> <p>21 Q. Now, do you normally wear your boots from</p> <p>22 your car into the building?</p> <p>23 A. Yes.</p>  | <p style="text-align: right;">44</p> <p>1 A. No.</p> <p>2 Q. Do you have an understanding as to how the</p> <p>3 number of hours that is listed on your paycheck,</p> <p>4 how that number is calculated?</p> <p>5 A. I don't know.</p> <p>6 Q. What is your understanding of how your start</p> <p>7 time for which you are paid is calculated on a</p> <p>8 given day?</p> <p>9 A. I don't understand what you're saying.</p> <p>10 Q. Are you paid from the time that you clock</p> <p>11 in?</p> <p>12 A. No.</p> <p>13 Q. Do you know what time you begin to be paid</p> <p>14 at?</p> <p>15 A. Supposed to be six o'clock.</p> <p>16 Q. And are you paid until you clock out?</p> <p>17 A. No.</p> <p>18 Q. Do you know what time the end period for</p> <p>19 your pay is determined?</p> <p>20 A. Three o'clock.</p> <p>21 Q. I think those are the only questions I have</p> <p>22 for you right now. I appreciate your time.</p> <p>23 BY MR. CAMP:</p>                                     |
| <p style="text-align: right;">43</p> <p>1 Q. Approximately how long does it take you from</p> <p>2 the time you leave your position on the line at</p> <p>3 the end of your shift to the time you're exiting</p> <p>4 the production doors?</p> <p>5 A. Five to six minutes.</p> <p>6 Q. Do you also throw your smock in a bin?</p> <p>7 A. Yes.</p> <p>8 Q. You don't take your smock home with you?</p> <p>9 A. No.</p> <p>10 Q. Is there a bin right by your break room</p> <p>11 where you would clock out?</p> <p>12 A. Yes.</p> <p>13 Q. Now, Ms. Morris, how often do you get paid?</p> <p>14 Weekly; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. When you get your paycheck, do you normally</p> <p>17 look at it to check to see if you've been paid the</p> <p>18 proper amount of hours?</p> <p>19 A. Yes.</p> <p>20 Q. Have you ever had any instance where you got</p> <p>21 your paycheck and you didn't believe it reflected</p> <p>22 the proper hours and you went and complained to</p> <p>23 your supervisor or someone in payroll?</p> | <p style="text-align: right;">45</p> <p>1 Q. I've got a few for you, Ms. Morris.</p> <p>2 A. Okay.</p> <p>3 Q. When you enter the plant, you said that you</p> <p>4 sanitize your boots. How do you do that?</p> <p>5 A. There is a machine sitting on the wall as</p> <p>6 you come in the production doors, and you have to</p> <p>7 mash that button for the foam to come out. And</p> <p>8 you stand there and let the foam come out on your</p> <p>9 boots.</p> <p>10 Q. You stand there. And does it spray the foam</p> <p>11 on your boots?</p> <p>12 A. Yes.</p> <p>13 Q. And when you push the button, the spray gets</p> <p>14 on your boots?</p> <p>15 A. Yes.</p> <p>16 Q. Do you have to move your feet up and down to</p> <p>17 make sure that it's covered all over your boots?</p> <p>18 A. Yes.</p> <p>19 Q. And then you walk out?</p> <p>20 A. Yes.</p> <p>21 Q. And you start to put on your PPE?</p> <p>22 A. Yes.</p> <p>23 Q. Other than the hair net that you already had</p> |

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| <p style="text-align: right;">46</p> <p>1 on and your earplugs and boots?</p> <p>2 A. Correct.</p> <p>3 Q. When you would come back from break, would</p> <p>4 you have to sanitize your boots?</p> <p>5 A. Yes.</p> <p>6 Q. Same process?</p> <p>7 A. Yes.</p> <p>8 Q. Same process both breaks?</p> <p>9 A. Yes.</p> <p>10 Q. When you would leave the production facility</p> <p>11 -- the production area, not the facility -- to go</p> <p>12 out on break, would you sanitize your boots?</p> <p>13 A. Sometimes.</p> <p>14 Q. When you leave for the end of the day, would</p> <p>15 you clean your boots?</p> <p>16 A. Sometimes.</p> <p>17 Q. The last thing you have to do before you</p> <p>18 clock out for the end of the day is place your</p> <p>19 smock in a bin?</p> <p>20 A. Correct.</p> <p>21 Q. And do they wash that smock for you?</p> <p>22 A. They have a company that comes in and gets</p> <p>23 the smocks and takes them out and have them</p>   | <p style="text-align: right;">48</p> <p>1 Q. Does the company know when you replace those</p> <p>2 items?</p> <p>3 A. Yes.</p> <p>4 Q. And I wasn't here for the first part of the</p> <p>5 deposition. You've been there a year and a half?</p> <p>6 A. Yes.</p> <p>7 Q. And you've been a steward for approximately</p> <p>8 six months?</p> <p>9 A. Yes.</p> <p>10 Q. How did you get that job?</p> <p>11 A. The guy that's over all of us, he asked me</p> <p>12 would I be a union rep for the evis department.</p> <p>13 Jerry Foster.</p> <p>14 Q. The guy that's over all of you?</p> <p>15 A. Yes.</p> <p>16 Q. Does he work for Equity Group?</p> <p>17 A. No. He's, I guess, international, in</p> <p>18 Birmingham.</p> <p>19 Q. He's not a local; he's international?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know how you were selected? how he</p> <p>22 came to pick you?</p> <p>23 A. No.</p>                |
| <p style="text-align: right;">47</p> <p>1 laundered. Sometimes they do it their selves.</p> <p>2 Q. Sometimes the company does?</p> <p>3 A. (Witness nods head.)</p> <p>4 Q. So you had told us that every day you have</p> <p>5 to go obtain a new smock?</p> <p>6 A. Yes.</p> <p>7 Q. Do you ever wash any of your PPE? your apron</p> <p>8 your sleeves, or anything like that?</p> <p>9 A. You're saying wash them at home?</p> <p>10 Q. Wash them at the plant.</p> <p>11 A. Yes.</p> <p>12 Q. When would you do that?</p> <p>13 A. Before the shift, before break -- I mean,</p> <p>14 after I come from break -- after I come from every</p> <p>15 break -- and then end of shift.</p> <p>16 Q. So before the shift, before the break, after</p> <p>17 the break, and at the end of the shift?</p> <p>18 A. Yes.</p> <p>19 Q. You said that you replace some items every</p> <p>20 day. You replace some items every day or every</p> <p>21 other day, but you don't have to. Do you remember</p> <p>22 which items you said that was?</p> <p>23 A. Blue gloves, cotton liners, and hair net.</p> | <p style="text-align: right;">49</p> <p>1 Q. Has there been any changes, since you've</p> <p>2 been there in the last year and a half, in the way</p> <p>3 that you are allowed to hit your time clock?</p> <p>4 A. No.</p> <p>5 Q. The attendance time clock?</p> <p>6 A. No.</p> <p>7 Q. There are no changes?</p> <p>8 A. No.</p> <p>9 Q. Can you hit the time clock any time you</p> <p>10 want, the attendance time clock? Can you swipe it</p> <p>11 at any time you want?</p> <p>12 A. I don't understand.</p> <p>13 Q. What time do you get there in the morning?</p> <p>14 A. 5:30.</p> <p>15 Q. What time do you start?</p> <p>16 A. Six.</p> <p>17 Q. Can you hit it at 5:30?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Were you present at the union</p> <p>20 negotiations?</p> <p>21 A. Yes.</p> <p>22 Q. Where, I guess, there would probably be the</p> <p>23 guy from Birmingham maybe or a local and maybe</p> |

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| <p style="text-align: right;">50</p> <p>1 some attorneys for Equity Group. Were you present</p> <p>2 at that meeting?</p> <p>3 A. Yes.</p> <p>4 Q. How many of those were there?</p> <p>5 A. Four.</p> <p>6 Q. Four? Over how long? Do you know?</p> <p>7 A. I don't understand.</p> <p>8 Q. How many months did it take? or did it take</p> <p>9 a week?</p> <p>10 A. It took four days.</p> <p>11 Q. You did it in four days?</p> <p>12 A. Yes.</p> <p>13 Q. Four consecutive days?</p> <p>14 A. No.</p> <p>15 Q. Okay.</p> <p>16 A. It was one day one week, and three days the</p> <p>17 next week.</p> <p>18 Q. Okay. So just over a couple weeks?</p> <p>19 A. Yes.</p> <p>20 Q. Did you attend each and every meeting?</p> <p>21 A. Yes.</p> <p>22 Q. Did you actually negotiate any of the</p> <p>23 agreement, talking to the people with that Equity</p> | <p style="text-align: right;">52</p> <p>1 A. Shop steward.</p> <p>2 Q. Are you a shop steward?</p> <p>3 A. Yes.</p> <p>4 Q. Was there anybody on this negotiation</p> <p>5 committee that was not a steward?</p> <p>6 A. Kathy Gilmore.</p> <p>7 Q. I'm sorry. Let me rephrase that. Any</p> <p>8 hourly employees on the list of people underneath</p> <p>9 the union that was not a steward or somehow</p> <p>10 associated with the union?</p> <p>11 A. No.</p> <p>12 Q. Any just hourly employees from the plant,</p> <p>13 union members?</p> <p>14 A. No.</p> <p>15 Q. Do you know Jim Bice?</p> <p>16 A. Yes.</p> <p>17 Q. Do you see him a lot? Is he the human</p> <p>18 resource director?</p> <p>19 A. I see him every now and then.</p> <p>20 Q. Is he there a lot?</p> <p>21 A. Yes.</p> <p>22 Q. Does he have an office there at the plant?</p> <p>23 A. Yes.</p>  |
| <p style="text-align: right;">51</p> <p>1 Group?</p> <p>2 A. No.</p> <p>3 Q. What did you do, just sit in there and</p> <p>4 watch?</p> <p>5 A. And listen.</p> <p>6 Q. And listen?</p> <p>7 A. Yes.</p> <p>8 Q. A lot of times, at the end of a negotiation</p> <p>9 like that, they'll give the employees from the</p> <p>10 plant an opportunity to voice their concerns or</p> <p>11 the opinions. Did y'all get to do that?</p> <p>12 A. Yes. But I didn't.</p> <p>13 Q. But you didn't?</p> <p>14 A. It was my first time.</p> <p>15 Q. Sure. Who is Jacqueline Davis?</p> <p>16 A. The chief steward.</p> <p>17 Q. Sharon Brinson?</p> <p>18 A. She's a shop steward.</p> <p>19 Q. Adrian Scovil?</p> <p>20 A. She's a steward, shop steward.</p> <p>21 Q. Kelvin Granger?</p> <p>22 A. Shop steward.</p> <p>23 Q. Tim Smith?</p>                           | <p style="text-align: right;">53</p> <p>1 Q. Do you know if he's over the -- as far as</p> <p>2 human resources goes, if he's over your plant, the</p> <p>3 cook plant, the hatchery, and the feed mill?</p> <p>4 A. I don't know.</p> <p>5 Q. You don't know? You just know him from your</p> <p>6 plant?</p> <p>7 A. Yes.</p> <p>8 Q. How about Kathy Gilmore? Do you know her?</p> <p>9 A. Yes, I know her.</p> <p>10 Q. Who in HR do you deal with the most or would</p> <p>11 you have the most contact with?</p> <p>12 A. Kathy.</p> <p>13 Q. Is there anybody under Kathy? Anybody in HR</p> <p>14 that works underneath Kathy?</p> <p>15 A. I don't know.</p> <p>16 Q. Is there a payroll lady?</p> <p>17 A. Yes. I don't know her name.</p> <p>18 Q. Where is she located?</p> <p>19 A. I don't know.</p> <p>20 Q. Is she in with HR?</p> <p>21 A. I don't know.</p> <p>22 Q. Okay. Fair enough. You said Jerry Foster</p> <p>23 picked you, right?</p> |

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| <p style="text-align: right;">54</p> <p>1 A. Yes.</p> <p>2 Q. You said you wear a hair net, earplugs,</p> <p>3 apron, smock, boots or shoe covers, arm guard,</p> <p>4 blue glove, chain glove, cotton liners?</p> <p>5 A. Yes.</p> <p>6 Q. Are these the items you refer to as PPE?</p> <p>7 A. Yes.</p> <p>8 Q. PPE stands for personal protective</p> <p>9 equipment?</p> <p>10 A. Yes.</p> <p>11 Q. You said you don't change any clothes at the</p> <p>12 plant?</p> <p>13 A. Correct.</p> <p>14 Q. When you were presented to sign this, did</p> <p>15 they give you the entire book and ask you to sign</p> <p>16 it, or did they just give you this page?</p> <p>17 A. Just this page.</p> <p>18 Q. And it's your understanding that this</p> <p>19 lawsuit is to compensate you or seek compensation</p> <p>20 for all hours that you've worked?</p> <p>21 A. Yes.</p> <p>22 Q. Starting from the time that you put on your</p> <p>23 first piece of clothing until the last job</p> | <p style="text-align: right;">56</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 BARBOUR COUNTY</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription, and that the foregoing represents</p> <p>11 a true and correct transcript of the testimony</p> <p>12 given by said witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor kin to the parties to the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18</p> <p>19 CYNTHIA M. NOAKES, Commissioner</p> <p>20 Certified Court Reporter,</p> <p>21 ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23 Commission Expires 07/08/2009</p> |
| <p style="text-align: right;">55</p> <p>1 requirement of the day?</p> <p>2 MR. GOULD: Let me object to the form.</p> <p>3 I've given you a lot of leeway here.</p> <p>4 Q. You can answer.</p> <p>5 A. Yes.</p> <p>6 Q. I think that's it.</p> <p>7 MR. GOULD: I don't have any other</p> <p>8 questions. Thank you very much.</p> <p>9</p> <p>10 (The deposition was concluded.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |  |

**TAB 42**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,  
Plaintiff(s),

vs.

EQUITY GROUP EUFAULA  
DIVISION, LLC,  
Defendant(s).

DEPOSITION OF  
ANTONIO PEARSON

JOB NO. 1101-58505

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008



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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 23rd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of ANTONIO PEARSON may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 23rd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6, 35</p> <p>5 Mr. Steensland 31</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |

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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 10:57 a.m., ANTONIO PEARSON,<br/> 4 in the above cause, for oral examination, whereupon<br/> 5 the following proceedings were had:<br/> 6<br/> 7 ANTONIO PEARSON,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 EXAMINATION BY MR. FRY:<br/> 12 Q. Good morning, Mr. Pearson.<br/> 13 A. Good morning.<br/> 14 Q. How are you?<br/> 15 A. All right. And you?<br/> 16 Q. My name is Gary Fry. I'm one of the<br/> 17 lawyers representing Equity Group Eufaula, the<br/> 18 operator of the poultry plant in Baker Hill. We<br/> 19 have asked you to come here today to answer some<br/> 20 questions with respect to a lawsuit which you and<br/> 21 other folks have brought against the company. Have<br/> 22 you ever been deposed before?<br/> 23 A. No.</p>  | <p style="text-align: right;">8</p> <p>1 Q. By whom?<br/> 2 A. WestPoint Home.<br/> 3 Q. At one point in time you were<br/> 4 employed by Equity?<br/> 5 A. Yes, I was.<br/> 6 Q. What period of time?<br/> 7 A. Between 2003 to 2005.<br/> 8 Q. So when you started CP operated the<br/> 9 plant?<br/> 10 A. Yes, they sure did.<br/> 11 Q. And for what reason did your<br/> 12 employment there end?<br/> 13 A. I went to a job to make more money.<br/> 14 Q. When you left Equity, what were you<br/> 15 doing for them?<br/> 16 A. Shipping.<br/> 17 Q. Did you have any other jobs at that<br/> 18 facility?<br/> 19 A. No.<br/> 20 Q. So during the period that CP had it<br/> 21 and Equity, the whole time you were there, you<br/> 22 worked in shipping?<br/> 23 A. Yes, I did.</p>   |
| <p style="text-align: right;">7</p> <p>1 Q. I'm going to be asking you questions,<br/> 2 and you will be giving me the answers. Victoria<br/> 3 will be taking down everything we say. If you<br/> 4 don't understand any of my questions, please let me<br/> 5 know and I will try and rephrase it so you<br/> 6 hopefully will be able to answer it. Sometimes my<br/> 7 questions aren't very artful, and so I'm sure you<br/> 8 will be able to point that out to me. If you don't<br/> 9 hear anything or a portion of a question, let me<br/> 10 know and I will repeat it. She can only take down<br/> 11 one person at a time, so it would be helpful if we<br/> 12 both remember not to talk over one another. You<br/> 13 know how that goes. And the last thing I would ask<br/> 14 is that any response to my questions be verbal<br/> 15 because she can't take down a nod of the head and<br/> 16 she doesn't do well with huh-uhs and uh-huhs.<br/> 17 A. Okay.<br/> 18 Q. What's your home address?<br/> 19 A. 794 Sid Bush Road, Clayton, Alabama.<br/> 20 Q. What's your date of birth?<br/> 21 A. 9/18/78.<br/> 22 Q. Are you presently employed?<br/> 23 A. Yes, I am.</p> | <p style="text-align: right;">9</p> <p>1 Q. What shift?<br/> 2 A. First.<br/> 3 Q. And what were the hours?<br/> 4 A. 8:30 to 5:30.<br/> 5 Q. And that's 8:30 a.m. to 5:30 p.m.?<br/> 6 A. Yes.<br/> 7 Q. What was your job in shipping?<br/> 8 A. Load and unload product.<br/> 9 Q. What were you loading and unloading<br/> 10 product from?<br/> 11 A. Trailers.<br/> 12 Q. And where did you do this job?<br/> 13 A. At CP -- where --<br/> 14 Q. That's one of my unartful questions.<br/> 15 Part of your work took place on a dock area?<br/> 16 A. Yes, it did, a cooler and a dock.<br/> 17 Q. Were you in the same building that<br/> 18 the debone and evis operations took place?<br/> 19 A. Yes, I was.<br/> 20 Q. And you worked at that dock area<br/> 21 that's in between that building and the cook plant?<br/> 22 A. Yes.<br/> 23 Q. So you picked up boxed products from</p> |

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| <p style="text-align: right;">10</p> <p>1 a cooler and loaded it onto refrigerated trailers?</p> <p>2 A. Yes, I did.</p> <p>3 Q. And what did you unload?</p> <p>4 A. Incoming product, chicken -- incoming</p> <p>5 chicken.</p> <p>6 Q. That's a surprise. And what did you</p> <p>7 do with that, put it in --</p> <p>8 A. Into a cooler.</p> <p>9 Q. Who was your supervisor?</p> <p>10 A. Melvin Arnold.</p> <p>11 Q. When you left, what was your rate of</p> <p>12 pay?</p> <p>13 A. \$8.75.</p> <p>14 Q. How many hours a week did you work?</p> <p>15 A. Forty -- at least forty.</p> <p>16 Q. Sometimes you worked overtime?</p> <p>17 A. Sometimes.</p> <p>18 Q. Generally was it a</p> <p>19 Monday-through-Friday job?</p> <p>20 A. Yes.</p> <p>21 Q. It's my understanding that you're a</p> <p>22 plaintiff in this lawsuit, a party, correct?</p> <p>23 A. Yes.</p>   | <p style="text-align: right;">12</p> <p>1 Q. No answer?</p> <p>2 A. No answer at this time.</p> <p>3 Q. When you were working for either CP</p> <p>4 or Equity, were you a member of the Union?</p> <p>5 A. Yes, I was.</p> <p>6 Q. Were you ever a Union steward?</p> <p>7 A. No.</p> <p>8 Q. Were you on any negotiating</p> <p>9 committees?</p> <p>10 A. No.</p> <p>11 Q. Did you ever go to any Union</p> <p>12 meetings?</p> <p>13 A. No, I didn't.</p> <p>14 Q. Have you ever been to any meetings</p> <p>15 that discuss this lawsuit, meetings with your</p> <p>16 coworkers?</p> <p>17 A. No.</p> <p>18 Q. Did you review any papers to prepare</p> <p>19 yourself to come here?</p> <p>20 A. No, I didn't.</p> <p>21 Q. Did you talk with anybody about your</p> <p>22 appearance here?</p> <p>23 A. No.</p>  |
| <p style="text-align: right;">11</p> <p>1 Q. And how did you find out about the</p> <p>2 suit?</p> <p>3 A. Word of mouth.</p> <p>4 Q. And what did you learn about it</p> <p>5 through word of mouth?</p> <p>6 A. That the chicken plant was -- that</p> <p>7 they were paying lost wage time, lost wages of</p> <p>8 time.</p> <p>9 Q. What's your understanding of the</p> <p>10 claim that you have in this case?</p> <p>11 MR. STEENSLAND: Objection. Asks</p> <p>12 for a legal question. You can answer.</p> <p>13 A. Managed lost wages for time that it</p> <p>14 took from putting equipment on, to taking it off,</p> <p>15 breaks.</p> <p>16 Q. (Mr. Fry) What about the breaks?</p> <p>17 A. The time it took to put equipment on</p> <p>18 and take it off and extra time for a break.</p> <p>19 Q. And how did you get that</p> <p>20 understanding that that was what your claim was in</p> <p>21 this case?</p> <p>22 A. I don't know at this time. I can't</p> <p>23 think of an answer.</p> | <p style="text-align: right;">13</p> <p>1 Q. Now, you made reference to</p> <p>2 equipment. Do you recall that?</p> <p>3 A. Yes.</p> <p>4 Q. What equipment are you referring to?</p> <p>5 A. Hair net, beard net, ear plugs,</p> <p>6 smock, boots.</p> <p>7 Q. Hold on. Hair net, beard net --</p> <p>8 A. Ear plugs, smock, boots, safety</p> <p>9 goggles.</p> <p>10 Q. Anything else?</p> <p>11 A. No, that was all.</p> <p>12 Q. Let me go down the list and make sure</p> <p>13 I have everything. A hair net, a beard net, ear</p> <p>14 plugs, smock, boots, and goggles, correct?</p> <p>15 A. Yes.</p> <p>16 Q. As a shipper which of these items, to</p> <p>17 your understanding, were you required to wear?</p> <p>18 A. All of them.</p> <p>19 Q. Were you ever written up for not</p> <p>20 wearing any of them?</p> <p>21 A. No.</p> <p>22 Q. From what you were able to observe in</p> <p>23 the two years you worked there, did other employees</p> |

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| <p style="text-align: right;">14</p> <p>1 with other different kinds of jobs wear different</p> <p>2 kinds of equipment?</p> <p>3 A. Yes.</p> <p>4 Q. What different kinds of equipment did</p> <p>5 you observe them wearing?</p> <p>6 A. They wore sleeves, aprons, rubber</p> <p>7 gloves. That's about it.</p> <p>8 Q. You didn't have to wear any of that?</p> <p>9 A. No.</p> <p>10 Q. Which of these items that you</p> <p>11 identified that you wore were issued to you by</p> <p>12 either CP or Equity?</p> <p>13 A. All of them.</p> <p>14 Q. Including the boots?</p> <p>15 A. Yes.</p> <p>16 Q. Were you permitted to wear boots from</p> <p>17 home?</p> <p>18 A. No.</p> <p>19 Q. Which of these items did you pick up</p> <p>20 on a daily basis?</p> <p>21 A. You can get hair nets and beard nets,</p> <p>22 but you have to pay for them.</p> <p>23 Q. Which items did you pick up on a</p>                             | <p style="text-align: right;">16</p> <p>1 A. That is right.</p> <p>2 Q. When you weren't working and you</p> <p>3 weren't at the plant, did you store any of these</p> <p>4 things at the plant?</p> <p>5 A. Yes, I had a locker.</p> <p>6 Q. What did you store in your locker?</p> <p>7 A. All of my equipment.</p> <p>8 Q. And what equipment, the things you</p> <p>9 just described to me?</p> <p>10 A. Yes.</p> <p>11 Q. You didn't work with a knife, did</p> <p>12 you?</p> <p>13 A. No, I didn't.</p> <p>14 Q. How many breaks per day did you get?</p> <p>15 A. Two.</p> <p>16 Q. How long were the breaks?</p> <p>17 A. One 30-minute and one 20-minute.</p> <p>18 Q. Where did you take your breaks?</p> <p>19 A. The break room.</p> <p>20 Q. What break room?</p> <p>21 A. The main break room at the front of</p> <p>22 the building.</p> <p>23 Q. Are you referring to the debone break</p> |
| <p style="text-align: right;">15</p> <p>1 daily basis?</p> <p>2 A. Neither -- I tried to keep it at as</p> <p>3 long as I could, because smocks you had to take</p> <p>4 home and wash.</p> <p>5 Q. Did you have to do that the whole</p> <p>6 time you were working there?</p> <p>7 A. Yes.</p> <p>8 Q. So can I assume from what you're</p> <p>9 telling me that there were days of the week that</p> <p>10 you didn't have to pick up anything?</p> <p>11 A. Yes, that is right.</p> <p>12 Q. How many days of the week on a</p> <p>13 typical workweek?</p> <p>14 A. Two.</p> <p>15 Q. There were two days that you did not</p> <p>16 have to pick up anything?</p> <p>17 A. Yes.</p> <p>18 Q. Could you wear any of these things</p> <p>19 that you wore from home?</p> <p>20 A. No.</p> <p>21 Q. During the time that you were there,</p> <p>22 you were never permitted to wear your boots from</p> <p>23 home; is that correct?</p> | <p style="text-align: right;">17</p> <p>1 room?</p> <p>2 A. Yes.</p> <p>3 Q. How did you know when it was time for</p> <p>4 you to take your break?</p> <p>5 A. I would walk in the office and look</p> <p>6 at the time.</p> <p>7 Q. Pardon?</p> <p>8 A. I would walk in the office and look</p> <p>9 at the time.</p> <p>10 Q. So which was first, the 30 or the</p> <p>11 20-minute break?</p> <p>12 A. The 30.</p> <p>13 Q. And if you started at 8:30 in the</p> <p>14 morning, when would you take that break?</p> <p>15 A. We would go to break at twelve.</p> <p>16 Q. So at twelve noon you just took your</p> <p>17 break?</p> <p>18 A. I could not take a break if I was</p> <p>19 still loading the trucks. When I finished loading,</p> <p>20 I would go to break.</p> <p>21 Q. Would you still get your 30 minutes?</p> <p>22 A. Yes.</p> <p>23 Q. And how would you know when your</p>       |

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| <p style="text-align: right;">18</p> <p>1 break period ended?</p> <p>2 A. By the clock.</p> <p>3 Q. So at the end of the time, you would</p> <p>4 just go back to work?</p> <p>5 A. Yes.</p> <p>6 Q. How did you get to work every day?</p> <p>7 A. By car.</p> <p>8 Q. Is it your own car?</p> <p>9 A. Yes.</p> <p>10 Q. Did you have a sticker on it?</p> <p>11 A. No. At the time, they didn't use</p> <p>12 stickers -- parking pass.</p> <p>13 Q. What did you have to do to get on the</p> <p>14 property? You had to pass through the guard shack?</p> <p>15 A. Yes.</p> <p>16 Q. And did they stop you there?</p> <p>17 A. No.</p> <p>18 Q. Just drove on if you had a -- what</p> <p>19 did you do, show a badge?</p> <p>20 A. Hangs in your window.</p> <p>21 Q. You just drove right by the guard?</p> <p>22 A. Yes.</p> <p>23 Q. And at the end of the day you just</p>               | <p style="text-align: right;">20</p> <p>1 Q. When would you clock in?</p> <p>2 A. I would clock in at 8:30.</p> <p>3 Q. Was it your understanding that your</p> <p>4 pay period started from when you clocked in?</p> <p>5 A. Yes, until I clock out.</p> <p>6 Q. And who told you that?</p> <p>7 A. That's what the supervisor said.</p> <p>8 Q. That's what the supervisor said?</p> <p>9 A. Yes.</p> <p>10 Q. That was Mr. Arnold?</p> <p>11 A. Yes.</p> <p>12 Q. The supplies that you identified for</p> <p>13 me -- the hair net, the beard net, the ear plugs,</p> <p>14 the smock -- where would you put those on?</p> <p>15 A. Right before entering the floor.</p> <p>16 Q. What floor?</p> <p>17 A. You cannot enter -- you cannot go</p> <p>18 inside without putting those on.</p> <p>19 Q. Inside where?</p> <p>20 A. Inside of the actual working area of</p> <p>21 the plant.</p> <p>22 Q. Where you worked, where the coolers</p> <p>23 were and where --</p> |
| <p style="text-align: right;">19</p> <p>1 drove off?</p> <p>2 A. Yes.</p> <p>3 Q. Were you ever searched?</p> <p>4 A. No.</p> <p>5 Q. You didn't have to pass through or</p> <p>6 clear any security, did you?</p> <p>7 A. No.</p> <p>8 Q. What time did you typically try to</p> <p>9 get to work in the morning to get to your 8:30</p> <p>10 shift on time?</p> <p>11 A. What time did I swipe in?</p> <p>12 Q. What time did you drive in onto the</p> <p>13 property?</p> <p>14 A. Maybe 8:20.</p> <p>15 Q. Tell me what you did from 8:20 for</p> <p>16 the next ten minutes.</p> <p>17 A. I would go to the supply room and get</p> <p>18 my supplies for the day, put my boots on, and get</p> <p>19 ready for my shift to start.</p> <p>20 Q. And what would you do to get ready</p> <p>21 for your shift to start?</p> <p>22 A. I wait until 8:30 when it was time to</p> <p>23 go.</p> | <p style="text-align: right;">21</p> <p>1 A. No, I would have to go through the</p> <p>2 plant to go back to where I work at. So I would</p> <p>3 have to put mine on and then walk through.</p> <p>4 Q. Okay. I'm not sure I understand. I</p> <p>5 know it's a lot simpler for you, but bear with me</p> <p>6 here if I can sort of take you through this. You</p> <p>7 go to supply on those days when you had to pick</p> <p>8 something up?</p> <p>9 A. Yes.</p> <p>10 Q. Sometime between 8:20 and 8:30,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And you never had to wait in line at</p> <p>14 supply at that hour, did you?</p> <p>15 A. Yes.</p> <p>16 Q. You did?</p> <p>17 A. A lot of time you did.</p> <p>18 Q. And why was that?</p> <p>19 A. There just be people up there.</p> <p>20 Q. What shift was coming on at the same</p> <p>21 time you were?</p> <p>22 A. Sanitation be there, first shift be</p> <p>23 up there, debone, evis.</p>         |

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| <p style="text-align: right;">22</p> <p>1 Q. Don't those shifts start before 8:30?</p> <p>2 A. Yes.</p> <p>3 Q. In fact, they start an hour or so</p> <p>4 before 8:30, don't they?</p> <p>5 A. Yes.</p> <p>6 Q. So those folks wouldn't be there,</p> <p>7 would they, generally?</p> <p>8 A. Yes.</p> <p>9 Q. They would, they would still be</p> <p>10 there?</p> <p>11 A. Yes -- don't know why.</p> <p>12 Q. Anyway -- so there are some people</p> <p>13 there. What is your longest wait there at the</p> <p>14 supply room?</p> <p>15 A. Maybe ten minutes.</p> <p>16 Q. Then you went to the debone break</p> <p>17 room and you put your boots on?</p> <p>18 A. Yes.</p> <p>19 Q. And from there you would go to your</p> <p>20 work area?</p> <p>21 A. Yes.</p> <p>22 Q. And once you got to your work area,</p> <p>23 is the first thing you did you clocked in?</p>                                       | <p style="text-align: right;">24</p> <p>1 you clocked in at 8:30?</p> <p>2 A. Yes.</p> <p>3 Q. You clocked in, put on your supplies,</p> <p>4 and walked to your work area?</p> <p>5 A. Yes.</p> <p>6 Q. How long does it take you, or did it</p> <p>7 take you, to put on these supplies?</p> <p>8 A. I don't know.</p> <p>9 Q. Can you estimate it?</p> <p>10 A. Maybe five minutes.</p> <p>11 Q. It doesn't take very long to put on</p> <p>12 those things, does it?</p> <p>13 A. I never really counted.</p> <p>14 Q. It's not very difficult, is it?</p> <p>15 A. No.</p> <p>16 Q. Before you started your job in</p> <p>17 shipping, did you have to pick up any tools or</p> <p>18 utensils, or anything?</p> <p>19 A. No.</p> <p>20 Q. Did you operate a forklift?</p> <p>21 A. Yes.</p> <p>22 Q. Am I correct that you had to take off</p> <p>23 some of these pieces of equipment, as you described</p> |
| <p style="text-align: right;">23</p> <p>1 A. No, I clocked in before I left the</p> <p>2 break room.</p> <p>3 Q. You clocked in at the break room?</p> <p>4 A. Yes.</p> <p>5 Q. And you clocked in at 8:30?</p> <p>6 A. Yes.</p> <p>7 Q. And it was your understanding that</p> <p>8 you were paid right from 8:30, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And did you ever learn differently</p> <p>11 that you weren't?</p> <p>12 A. No.</p> <p>13 Q. After you clocked in, you walked to</p> <p>14 your work area?</p> <p>15 A. Yes.</p> <p>16 Q. And at that point in time you put on</p> <p>17 your supplies?</p> <p>18 A. No, I put it on before.</p> <p>19 Q. When did you put it on?</p> <p>20 A. When I entered the doors to actually</p> <p>21 go on the floor. You can't walk through when they</p> <p>22 processing chicken without your equipment on.</p> <p>23 Q. Did you put on your supplies after</p> | <p style="text-align: right;">25</p> <p>1 them, in order to go on your break?</p> <p>2 A. Yes.</p> <p>3 Q. Describe for me what you did in that</p> <p>4 respect.</p> <p>5 A. What I took off?</p> <p>6 Q. Where you went, what you took off.</p> <p>7 A. I would take it off before I leave</p> <p>8 out the door. After I leave off the shipping dock</p> <p>9 and go out the door.</p> <p>10 Q. So you could take your stuff off in</p> <p>11 the shipping dock and hang it right there?</p> <p>12 A. Yes.</p> <p>13 Q. And then you just walk to the break</p> <p>14 room?</p> <p>15 A. Yes.</p> <p>16 Q. Did you take your breaks at the</p> <p>17 debone break room?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Did you have to take anything off to</p> <p>20 go on break besides your smock?</p> <p>21 A. Smock, hair net, beard net.</p> <p>22 Q. Were you required to take your hair</p> <p>23 net off?</p>   |



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| <p style="text-align: right;">26</p> <p>1 A. Yes.</p> <p>2 Q. You didn't have to do any washing?</p> <p>3 A. No.</p> <p>4 Q. Didn't take you very long to take</p> <p>5 that stuff off and hang it up, did it?</p> <p>6 A. A few minutes.</p> <p>7 Q. Two minutes?</p> <p>8 A. Never really counted.</p> <p>9 Q. Never counted it?</p> <p>10 A. No.</p> <p>11 Q. Okay. And when your break was over,</p> <p>12 I assume that you did the reverse process, you</p> <p>13 walked from the break room back to the shipping</p> <p>14 dock, put the stuff back on, and went back to work?</p> <p>15 A. Yes, I did.</p> <p>16 Q. When you went on break, did you clock</p> <p>17 out?</p> <p>18 A. No.</p> <p>19 Q. How many people did you work with on</p> <p>20 the shipping dock?</p> <p>21 A. Seven.</p> <p>22 Q. Were they doing the same things you</p> <p>23 were doing?</p>   | <p style="text-align: right;">28</p> <p>1 clocked out, and then you were free to leave?</p> <p>2 A. Yes.</p> <p>3 Q. Was it your understanding that the</p> <p>4 company kept track of your work hours pursuant to</p> <p>5 your actual swipe-in, swipe-out times?</p> <p>6 A. No, I didn't know that.</p> <p>7 Q. You didn't know that?</p> <p>8 A. No.</p> <p>9 Q. Did you ever ask?</p> <p>10 A. No.</p> <p>11 Q. What was your understanding as to how</p> <p>12 the company kept track of your time?</p> <p>13 A. By me clocking in and out.</p> <p>14 Q. So that was your understanding? I am</p> <p>15 sorry, maybe my question wasn't clear.</p> <p>16 MR. STEENSLAND: I think one</p> <p>17 question you swiped and one question you clocked.</p> <p>18 MR. FRY: Okay. We have been</p> <p>19 going at this for three days.</p> <p>20 Q. (Mr. Fry) Was it your understanding,</p> <p>21 Mr. Pearson, that the time for which you were paid</p> <p>22 was computed based on when you swiped in at 8:30 in</p> <p>23 the morning and then when you swiped out at 5:30 in</p> |
| <p style="text-align: right;">27</p> <p>1 A. Yes, they were.</p> <p>2 Q. Did this routine that you just</p> <p>3 described for me that you did when you took your</p> <p>4 breaks, did you do that for -- was it pretty much</p> <p>5 similar for both breaks?</p> <p>6 A. Yes, every break.</p> <p>7 Q. Tell me what you did at the end of</p> <p>8 your shift in terms of this equipment.</p> <p>9 A. I repeat the process. I store</p> <p>10 everything in my locker, and I clock out and go</p> <p>11 home.</p> <p>12 Q. When it came to 5:30, you stopped</p> <p>13 work on the dock?</p> <p>14 A. Yes.</p> <p>15 Q. And you took off your equipment in</p> <p>16 the dock area?</p> <p>17 A. Yes, sir, I did.</p> <p>18 Q. And then you walked to the debone</p> <p>19 break room?</p> <p>20 A. Yes.</p> <p>21 Q. And that's when you clocked out?</p> <p>22 A. After I stored everything.</p> <p>23 Q. After you stored it, and then you</p> | <p style="text-align: right;">29</p> <p>1 the afternoon?</p> <p>2 A. Yes.</p> <p>3 MR. STEENSLAND: Objection.</p> <p>4 Asked and answered. You can answer.</p> <p>5 Q. (Mr. Fry) And were you told that?</p> <p>6 A. Yes.</p> <p>7 Q. Did you ever have occasion to go to</p> <p>8 your supervisor and complain about any payroll</p> <p>9 issues?</p> <p>10 A. Yes.</p> <p>11 Q. And what sort of issues did you have?</p> <p>12 A. Short of time.</p> <p>13 Q. And what happened?</p> <p>14 A. They resolved it.</p> <p>15 Q. He resolved it for you?</p> <p>16 A. Yes.</p> <p>17 Q. Other than swiping-in and</p> <p>18 swiping-out, did you keep track in any other</p> <p>19 fashion of the hours you spent there?</p> <p>20 A. No.</p> <p>21 Q. Have you made any sort of</p> <p>22 calculations as to what you believe you're entitled</p> <p>23 to in this lawsuit?</p>   |



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| <p style="text-align: right;">30</p> <p>1 A. No.</p> <p>2 Q. Were you ever asked or required to</p> <p>3 work overtime?</p> <p>4 A. Yes.</p> <p>5 Q. And when that occurred, were you paid</p> <p>6 time-and-a-half?</p> <p>7 A. To my understanding.</p> <p>8 Q. Did you ever have any complaints</p> <p>9 about your overtime, how it was computed?</p> <p>10 A. No.</p> <p>11 Q. And again, were the overtime hours,</p> <p>12 from what you were able to understand, based on</p> <p>13 your swipe time?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ever file a grievance with</p> <p>16 the Union?</p> <p>17 A. No.</p> <p>18 Q. Were you ever disciplined while you</p> <p>19 were working there?</p> <p>20 A. Yes, I have.</p> <p>21 Q. And what were you disciplined for?</p> <p>22 A. Hitting the door.</p> <p>23 Q. Pardon?</p>  | <p style="text-align: right;">32</p> <p>1 when you took them home?</p> <p>2 A. Wash them.</p> <p>3 Q. Were you required to do that?</p> <p>4 A. Yes, I was.</p> <p>5 Q. At any point in time when you were</p> <p>6 working there, did that arrangement change, did</p> <p>7 that requirement change?</p> <p>8 A. Recently when I went back they was</p> <p>9 actually issuing them to you.</p> <p>10 Q. They were issuing them to you?</p> <p>11 A. Yes.</p> <p>12 Q. And how long was that period of time?</p> <p>13 A. A month.</p> <p>14 Q. During both periods of time when you</p> <p>15 worked there, before you could put on your</p> <p>16 equipment, did you have to sanitize your boots?</p> <p>17 A. Yes, I did.</p> <p>18 Q. That was the first thing you had to</p> <p>19 do before you could put on all this equipment we</p> <p>20 talked about?</p> <p>21 A. Yes.</p> <p>22 Q. Did you have to wash that equipment</p> <p>23 down once you had it put on?</p> |
| <p style="text-align: right;">31</p> <p>1 A. Hitting the door.</p> <p>2 Q. With a forklift?</p> <p>3 A. Yes.</p> <p>4 Q. Is that the only thing?</p> <p>5 A. That's the only thing I can think of</p> <p>6 at this moment.</p> <p>7 Q. We went through what you did on a</p> <p>8 daily basis here. Did your routine change in any</p> <p>9 way when Keystone took over?</p> <p>10 A. No.</p> <p>11 Q. You did pretty much the same routine</p> <p>12 for CP and Keystone?</p> <p>13 A. Yes.</p> <p>14 MR. FRY: That's all I have.</p> <p>15</p> <p>16 EXAMINATION BY MR. STEENSLAND:</p> <p>17 Q. Mr. Pearson, when you were working</p> <p>18 there the time you worked for Equity Group, did you</p> <p>19 have to take your smock home with you?</p> <p>20 A. Yes, I did.</p> <p>21 Q. How many smocks were you issued?</p> <p>22 A. Three.</p> <p>23 Q. And what did you have to do with them</p> | <p style="text-align: right;">33</p> <p>1 A. No.</p> <p>2 Q. And this last part when you were</p> <p>3 working there before you swiped the card to leave,</p> <p>4 what did you have to do with your smock?</p> <p>5 A. I put it in the bin.</p> <p>6 Q. Was that the last thing you did</p> <p>7 before you swiped the card?</p> <p>8 A. Yes.</p> <p>9 Q. For your breaks, the beginning and</p> <p>10 end part of your breaks, you either had to take off</p> <p>11 the equipment or put on the equipment. Is that</p> <p>12 what your testimony was?</p> <p>13 A. Yes.</p> <p>14 Q. Then you had to walk somewhere?</p> <p>15 A. Yes.</p> <p>16 Q. Is it your understanding that that</p> <p>17 was included in your 30-minute break, or 20-minute</p> <p>18 break?</p> <p>19 A. No, I didn't.</p> <p>20 Q. Did time spent doing those things</p> <p>21 prevent you from enjoying the full period of the</p> <p>22 break?</p> <p>23 A. Yes, it did.</p>                     |

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| <p style="text-align: right;">34</p> <p>1 MR. STEENSLAND: One more</p> <p>2 question.</p> <p>3 Q. (Mr. Steensland) When you were</p> <p>4 working there, could you wear your boots home with</p> <p>5 you?</p> <p>6 A. No. They wanted you to take them off</p> <p>7 before you left the premises.</p> <p>8 Q. Both times that you worked there?</p> <p>9 A. Yes.</p> <p>10 Q. So when you say they wanted you to,</p> <p>11 what happens if you walked out wearing your boots</p> <p>12 outside?</p> <p>13 MR. FRY: Objection.</p> <p>14 Q. (Mr. Steensland) If you know.</p> <p>15 A. They will write you up.</p> <p>16 Q. So what did you do if you had your</p> <p>17 boots on and you were leaving, what would you do?</p> <p>18 A. You would take them off first.</p> <p>19 Q. Is this after you swiped your card?</p> <p>20 A. No, before.</p> <p>21 Q. And you would carry them with you, or</p> <p>22 what would you do?</p> <p>23 A. Yes, you would carry them. If you</p> | <p style="text-align: right;">36</p> <p>1 MR. STEENSLAND: Nothing further.</p> <p>2 11:29 a.m.</p> <p>3 *****</p> <p>4 FURTHER DEPONENT SAITH NOT</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">35</p> <p>1 were not issued a locker, you would carry them with</p> <p>2 you.</p> <p>3 Q. When you came back for work the next</p> <p>4 day, you'd have to carry the boots back in?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And at some point in time were you</p> <p>7 allowed to wear the boots home?</p> <p>8 A. No.</p> <p>9 Q. At no point in time when you worked</p> <p>10 there could you wear your boots home?</p> <p>11 A. No.</p> <p>12 MR. STEENSLAND: Nothing further.</p> <p>13 MR. FRY: Just two questions, I</p> <p>14 think.</p> <p>15</p> <p>16 EXAMINATION BY MR. FRY:</p> <p>17 Q. In the morning when you sanitized</p> <p>18 your boots, was that after you swiped in at 8:30?</p> <p>19 A. Yes.</p> <p>20 Q. When you left in the evening at 5:30,</p> <p>21 did you sanitize your boots before you swiped out?</p> <p>22 A. Yes.</p> <p>23 MR. FRY: That's all.</p>  | <p style="text-align: right;">37</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |

**TAB 43**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,  
Plaintiff(s),

vs.

EQUITY GROUP EUFAULA  
DIVISION, LLC,  
Defendant(s).

DEPOSITION OF  
MARQUITA PERSON

JOB NO. 1101-58505

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 23rd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of MARQUITA PERSON may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 23rd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6, 46, 50</p> <p>5 Mr. Steensland 43, 48, 51</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 ALSO PRESENT:</p> <p>18 Two children with the Plaintiff</p> <p>19</p> <p>20 *****</p> <p>21</p> <p>22 I, Victoria M. Castillo, a Court</p> <p>23 Reporter of Montgomery, Alabama, acting as</p> |

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| <p style="text-align: right;">6</p> <p>1 Commissioner, certify that on this date, as<br/> 2 provided by the Alabama Rules of Civil Procedure<br/> 3 and the foregoing stipulation of counsel, there<br/> 4 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 5 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 6 36027, commencing at 8:53 a.m., MARQUITA PERSON, in<br/> 7 the above cause, for oral examination, whereupon<br/> 8 the following proceedings were had:<br/> 9<br/> 10 MARQUITA PERSON,<br/> 11 being first duly sworn, was examined and<br/> 12 testified as follows:<br/> 13<br/> 14 COURT REPORTER: Usual<br/> 15 stipulations?<br/> 16 MR. FRY: Sure.<br/> 17 MR. STEENSLAND: Sure.<br/> 18<br/> 19 EXAMINATION BY MR. FRY:<br/> 20 Q. Good morning, Ms. Person. How are<br/> 21 you?<br/> 22 A. Fine.<br/> 23 Q. My name is Gary Fry. I'm one of the</p>   | <p style="text-align: right;">8</p> <p>1 Q. And she can only take down one person<br/> 2 talking at a time, so we should not talk over one<br/> 3 another, if that's at all possible. I don't think<br/> 4 that's going to happen.<br/> 5 A. Okay.<br/> 6 Q. What's your home address?<br/> 7 A. My home address is 52 Lonnie Wilson<br/> 8 Road, Clayton, Alabama, 36016.<br/> 9 Q. What is your date of birth?<br/> 10 A. 11/19/83.<br/> 11 Q. Are you currently employed?<br/> 12 A. No, sir.<br/> 13 Q. At one point in time it's my<br/> 14 understanding you worked at the poultry plant at<br/> 15 Baker Hill?<br/> 16 A. Yes, sir.<br/> 17 Q. And you worked for Equity during that<br/> 18 time?<br/> 19 A. Yes, sir.<br/> 20 Q. What period of time did you work<br/> 21 there?<br/> 22 A. Six months.<br/> 23 Q. When did you start?</p> |
| <p style="text-align: right;">7</p> <p>1 lawyers representing Equity Group Eufaula, and<br/> 2 that's the folks that run the poultry plant out in<br/> 3 Baker Hill, and we have asked you here today to put<br/> 4 some questions to you concerning some claims that<br/> 5 you and some others folks have made in a lawsuit<br/> 6 against the company?<br/> 7 A. Okay.<br/> 8 Q. Have you ever been in a deposition<br/> 9 before?<br/> 10 A. No, sir.<br/> 11 Q. It's fairly simple. I will be asking<br/> 12 you the questions, and you will be giving me the<br/> 13 answers, and our court reporter, Victoria, will be<br/> 14 taking down the information. If you don't<br/> 15 understand my question, it's important that you let<br/> 16 me know so that I can rephrase it in a manner<br/> 17 hopefully in which you will understand it. Okay?<br/> 18 If you don't hear any portion of a question -- and<br/> 19 I don't think that will happen -- but if you don't,<br/> 20 let me know and I will repeat it. Your answers<br/> 21 need to be verbal because she can't take down a nod<br/> 22 or a shake of the head. Okay?<br/> 23 A. Okay. Yes, sir.</p> | <p style="text-align: right;">9</p> <p>1 A. I started -- it was 2005.<br/> 2 Q. Do you recall what time of year it<br/> 3 was?<br/> 4 A. It was in August.<br/> 5 Q. In August?<br/> 6 A. Uh-huh.<br/> 7 Q. So you worked from August of 2005 for<br/> 8 the next six months into 2006?<br/> 9 A. Yes, sir.<br/> 10 Q. So you worked until about February of<br/> 11 '06?<br/> 12 A. Yes, sir.<br/> 13 Q. What department did you work in?<br/> 14 A. DSI.<br/> 15 Q. Is that the only department you<br/> 16 worked in?<br/> 17 A. Yes, sir.<br/> 18 Q. What shift did you work?<br/> 19 A. First.<br/> 20 Q. What were your hours?<br/> 21 A. 7:30 to 4:30.<br/> 22 Q. Am I correct that the DSI area where<br/> 23 you worked was in the debone production room,</p>   |

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| <p style="text-align: right;">10</p> <p>1 adjacent to it?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Did you work any other shifts?</p> <p>4 A. No, sir.</p> <p>5 Q. You worked no other jobs except DSI?</p> <p>6 A. Yes, sir.</p> <p>7 Q. What did you do?</p> <p>8 A. I was -- they had the line going down</p> <p>9 with the chicken, and I had to pull the breast or</p> <p>10 either the thigh, and put them like in a bin, and</p> <p>11 that's it.</p> <p>12 Q. Were you on a line?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And who is your supervisor?</p> <p>15 A. Leon Jones.</p> <p>16 Q. What was your rate of pay?</p> <p>17 A. I started at \$7, and when I quit, I</p> <p>18 was making \$7.35.</p> <p>19 Q. Why did you quit?</p> <p>20 A. Why did I quit?</p> <p>21 Q. Yes.</p> <p>22 A. Because I pointed out.</p> <p>23 Q. You pointed out?</p>  | <p style="text-align: right;">12</p> <p>1 both called, and they sent out a paper in the mail,</p> <p>2 and we had to fill them out and send them back.</p> <p>3 Q. What is your understanding as to what</p> <p>4 your claim is in this case?</p> <p>5 A. That I wasn't getting all my time.</p> <p>6 Because when we first get in in the morning, we</p> <p>7 have to put our supplies on. And we wasn't getting</p> <p>8 paid for it. It was taking up some of our time.</p> <p>9 Then when we leave that day, we have to wash our</p> <p>10 supplies off and take them off.</p> <p>11 Q. And that's your claim?</p> <p>12 A. Yes.</p> <p>13 Q. And how did you come to that</p> <p>14 understanding?</p> <p>15 A. Sir?</p> <p>16 Q. How did you come to that</p> <p>17 understanding that that was what your claim was?</p> <p>18 A. Because --</p> <p>19 MR. STEENSLAND: Object. That</p> <p>20 calls for a legal conclusion. You can answer.</p> <p>21 MR. FRY: You can answer.</p> <p>22 A. Okay. Because when I first heard</p> <p>23 about it, that's what they said, it was taking our</p> |
| <p style="text-align: right;">11</p> <p>1 A. Yes, sir.</p> <p>2 Q. So you were terminated because of</p> <p>3 attendance policies?</p> <p>4 A. Yes, sir.</p> <p>5 Q. How many hours per week did you work?</p> <p>6 A. Forty.</p> <p>7 Q. Monday through Friday?</p> <p>8 A. Yes.</p> <p>9 Q. Were you a member of the Union when</p> <p>10 you were there?</p> <p>11 A. No, sir.</p> <p>12 Q. How did you find out about this</p> <p>13 lawsuit?</p> <p>14 A. Well, I had got a -- okay, well I</p> <p>15 heard some friends talking about it, and I called,</p> <p>16 and they sent me some papers, and I filled them</p> <p>17 out.</p> <p>18 Q. What did you hear your friends saying</p> <p>19 about it?</p> <p>20 A. They was just telling me that they a</p> <p>21 had a lawsuit against the chicken plant about that</p> <p>22 they was wasn't giving us all our hours, and so she</p> <p>23 had got the number from one of her friends, and we</p> | <p style="text-align: right;">13</p> <p>1 hours, because, you know what I am saying, of our</p> <p>2 supplies. Then I went to other meetings, or</p> <p>3 whatever, and that is what, you know what I'm</p> <p>4 saying, taking about.</p> <p>5 Q. (Mr. Fry) What meeting did you go</p> <p>6 to?</p> <p>7 A. I had to go to some meetings out in</p> <p>8 at the motel out here. What's the name of the</p> <p>9 motel, out by the skate rink. I had to go out</p> <p>10 there. Then I had talked to people over the phone.</p> <p>11 Q. Who was at the meetings?</p> <p>12 A. Who was at the meetings?</p> <p>13 Q. Yes, ma'am.</p> <p>14 A. Well, I really don't know their</p> <p>15 names, but we had to go. And it was a lot of</p> <p>16 people that was in the lawsuit. They had to come</p> <p>17 there, too. We had to fill out papers and stuff</p> <p>18 like that.</p> <p>19 Q. Did anybody speak at the meetings?</p> <p>20 A. No, sir.</p> <p>21 Q. The meetings were just for you to</p> <p>22 fill out the papers?</p> <p>23 A. Yes, fill out the paper. And we had</p>            |



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| <p style="text-align: right;">14</p> <p>1 to read over the papers and make sure we knew what</p> <p>2 was what.</p> <p>3 Q. How many meetings did you go to?</p> <p>4 A. I went to one meeting, and I talked</p> <p>5 to two people over the phone.</p> <p>6 Q. Lawyers?</p> <p>7 A. Yes, sir.</p> <p>8 Q. When was the one meeting that you</p> <p>9 went to? Do you recall when it was?</p> <p>10 A. No, sir. It was during the</p> <p>11 summertime.</p> <p>12 Q. Last summer? Was it last summer?</p> <p>13 A. No, it was this summer.</p> <p>14 Q. This summer?</p> <p>15 A. Yes.</p> <p>16 Q. Just recently?</p> <p>17 A. Hold on, hold on.</p> <p>18 Q. Take your time.</p> <p>19 A. Okay. No, it was last summer. It</p> <p>20 was last summer, I'm sorry.</p> <p>21 Q. How many people were at the meeting?</p> <p>22 A. I know I talked to two ladies, and it</p> <p>23 was some more people there, too, like some mens.</p>  | <p style="text-align: right;">16</p> <p>1 here?</p> <p>2 A. Yes.</p> <p>3 Q. Did you review any papers in</p> <p>4 preparation for coming here today?</p> <p>5 A. No, sir.</p> <p>6 Q. Did you speak with anybody about</p> <p>7 coming here today except your lawyers?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Who did you speak with?</p> <p>10 A. Jennifer.</p> <p>11 Q. Who is Jennifer?</p> <p>12 A. I don't know her last name.</p> <p>13 Q. And what did you speak with Jennifer</p> <p>14 about?</p> <p>15 A. Well, Jennifer called me at my</p> <p>16 mother's house, and my mother had gave me the</p> <p>17 number to call her, and I called her, and --</p> <p>18 MR. STEENSLAND: Is Jennifer with</p> <p>19 a law firm?</p> <p>20 THE DEPONENT: I don't know</p> <p>21 Jennifer and Christie?</p> <p>22 MR. STEENSLAND: She's with a law</p> <p>23 firm.</p>  |
| <p style="text-align: right;">15</p> <p>1 Q. Other coworkers?</p> <p>2 A. Not coworkers, the ones that we dealt</p> <p>3 with, the people that they had us filling the</p> <p>4 papers out and stuff.</p> <p>5 Q. Were they the lawyers?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Did anybody make any speeches?</p> <p>8 A. No, they were just telling us --</p> <p>9 MR. STEENSLAND: I'm going to</p> <p>10 object if we're talking about lawyers here.</p> <p>11 Q. (Mr. Fry) I don't want to know what</p> <p>12 the lawyers told you. Okay?</p> <p>13 A. Okay.</p> <p>14 Q. Did anybody that was not a lawyer</p> <p>15 talk to you there?</p> <p>16 A. Huh-uh.</p> <p>17 Q. How long were you at the meeting?</p> <p>18 A. We stayed there about -- I stayed</p> <p>19 there about an hour because they had to call the</p> <p>20 people down the line by names to come up and talk</p> <p>21 and check over the paperwork and make sure we did</p> <p>22 everything right.</p> <p>23 Q. And the meeting was at a hotel around</p> | <p style="text-align: right;">17</p> <p>1 MR. FRY: She's with a law firm.</p> <p>2 Q. (Mr. Fry) When did Jennifer call</p> <p>3 you?</p> <p>4 A. Jennifer called me -- she called me</p> <p>5 day before yesterday, and then she called me</p> <p>6 yesterday to let me know to make sure that I be</p> <p>7 here.</p> <p>8 Q. Did you speak with anybody else</p> <p>9 besides Jennifer?</p> <p>10 A. No, sir.</p> <p>11 Q. You told me that your claim is for</p> <p>12 the time you spent putting on supplies and taking</p> <p>13 off supplies. Do you recall that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Can you identify for me what supplies</p> <p>16 you were talking about?</p> <p>17 A. Well, we have to put on our smock,</p> <p>18 our apron; we had to put on our sleeves; we had to</p> <p>19 put on our safety gloves; we had to put on our</p> <p>20 cotton gloves; we had to make sure our ear plugs</p> <p>21 was in our ear, hair nets; we had to put on our</p> <p>22 safety glasses.</p> <p>23 Q. Anything else?</p> |

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| <p style="text-align: right;">18</p> <p>1 A. No, sir.</p> <p>2 Q. Let me make sure I have the complete</p> <p>3 list. You identified a smock, an apron, sleeves,</p> <p>4 gloves, safety gloves, ear plugs, hair net, and</p> <p>5 glasses.</p> <p>6 A. Yes.</p> <p>7 Q. Anything else?</p> <p>8 A. No, sir.</p> <p>9 Q. Which of these items were you</p> <p>10 required to wear?</p> <p>11 A. Well, we were -- all the ones that I</p> <p>12 just told you on the paper, we had all those. All</p> <p>13 of those that we had to put on. We had to put on</p> <p>14 all those.</p> <p>15 Q. What paper were you referring to?</p> <p>16 A. The paper that --</p> <p>17 Q. The paper that I am writing on. So</p> <p>18 you were required to wear all these items?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Who told you that?</p> <p>21 A. The supervisor, and we have to go out</p> <p>22 there for our orientation, they tell us what do we</p> <p>23 have to -- that we have to wear all those before we</p>   | <p style="text-align: right;">20</p> <p>1 company?</p> <p>2 A. What were given to me by the company</p> <p>3 were all the supplies that I told you we had to</p> <p>4 wear, the time that we had to be on the floor and</p> <p>5 off the floor.</p> <p>6 Q. I just wanted to know which of these,</p> <p>7 and I think you told me all of these things were</p> <p>8 given to you by the company?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Which of these items did you pick up</p> <p>11 on a daily basis?</p> <p>12 A. Well, my hair nets. We had to pick</p> <p>13 up our smocks because they had -- well, at first we</p> <p>14 had to start washing them, and then they had to</p> <p>15 start getting them, and we had to put them in the</p> <p>16 bin every day before we leave, and they wash them,</p> <p>17 and really that's about it.</p> <p>18 Q. Am I correct that when you first</p> <p>19 started working there, you had to wash your</p> <p>20 smocks?</p> <p>21 A. Yes.</p> <p>22 Q. And how long did you have to do that</p> <p>23 before that stopped?</p>   |
| <p style="text-align: right;">19</p> <p>1 get on the floor.</p> <p>2 Q. Did everybody in DSI wear the same</p> <p>3 items?</p> <p>4 A. Yes, sir. Except for the supervisors</p> <p>5 and the line leaders. Unless they have to get on</p> <p>6 the line, then they have to put them on.</p> <p>7 Q. During the six months you worked</p> <p>8 there, was anybody ever written up for not wearing</p> <p>9 any of these items?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Can you give me any examples?</p> <p>12 A. Well, I know a couple of people that</p> <p>13 wrote up because they didn't have their ear plugs.</p> <p>14 Some people got wrote up because they didn't have</p> <p>15 their safety glasses. But, yes, and then some of</p> <p>16 them, they probably didn't bring they sleeves, and</p> <p>17 they was running late, and they couldn't make it to</p> <p>18 the supply to get more. And when they came by to</p> <p>19 write them up, the people that came by and wrote</p> <p>20 them up, they have to take them to the supply room</p> <p>21 or make them go and get the supplies.</p> <p>22 Q. Which of these items that you have</p> <p>23 identified for me were given to you by the</p> | <p style="text-align: right;">21</p> <p>1 A. I really don't know because it done</p> <p>2 been a minute since I've been out there.</p> <p>3 Q. But sometimes during that six months</p> <p>4 they switched policies --</p> <p>5 A. Yes.</p> <p>6 Q. You have to wait until I finish.</p> <p>7 A. Okay.</p> <p>8 Q. All right. Sometime during that six</p> <p>9 months you worked there Equity switched its</p> <p>10 procedures and it provided you with a smock every</p> <p>11 day, is that correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Which, if any, of these items were</p> <p>14 you permitted to wear from home?</p> <p>15 A. Our hair nets; we can put our ear</p> <p>16 plugs in before we leave home; and that's it. Then</p> <p>17 our shoes before they start, you know, because at</p> <p>18 first we couldn't walk out the door with the shoes</p> <p>19 on, but then they changed the policy.</p> <p>20 Q. So when you started you could not</p> <p>21 wear the shoes you wore in the production floor</p> <p>22 outside --</p> <p>23 A. You had to --</p> |

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| <p style="text-align: right;">22</p> <p>1 Q. You wanted to say something, go<br/>2 ahead.<br/>3 A. This is how it was. We couldn't have<br/>4 our boots on walking down the, you know, in the --<br/>5 in the evis group on the floor, we couldn't walk<br/>6 them on. We had to take them off and put our shoes<br/>7 on and before we go out the door.<br/>8 Q. And did that --<br/>9 A. They changed it.<br/>10 Q. -- policy change?<br/>11 A. Yes.<br/>12 Q. And do you recall when that changed?<br/>13 A. No, sir.<br/>14 Q. Sometime during the time you were<br/>15 there?<br/>16 A. Yes, sir.<br/>17 Q. After the policy changed, were you<br/>18 permitted to wear your boots from home?<br/>19 A. Yes, sir.<br/>20 Q. And were your boots provided to you<br/>21 by the company?<br/>22 A. Yes, sir.<br/>23 Q. And was that also one of the other</p>  | <p style="text-align: right;">24</p> <p>1 inside the debone, you know what I'm saying, inside<br/>2 the plant. You know what I'm saying?<br/>3 Q. On the production floor?<br/>4 A. Yes, sir, on the production floor.<br/>5 Q. And am I correct that you could wear<br/>6 your -- I think you just told me -- your hair net,<br/>7 your ear plugs, and your boots you could wear those<br/>8 from home?<br/>9 A. Yes, sir.<br/>10 Q. So you put on the rest of these<br/>11 things in the production floor?<br/>12 A. Yes, sir.<br/>13 Q. Right before you started working?<br/>14 A. Yes, sir.<br/>15 Q. Your shift started at 7:30, I think<br/>16 you told me?<br/>17 A. Yes, sir.<br/>18 Q. How soon before 7:30 would you go<br/>19 into the production floor to put on these items of<br/>20 supplies?<br/>21 A. Well, we have to be on the floor<br/>22 before 7:30 before the line start running, and I<br/>23 leave -- like if I be on the break room, I leave by</p> |
| <p style="text-align: right;">23</p> <p>1 items you were required to wear?<br/>2 A. Yes, sir.<br/>3 Q. When you weren't working on the job,<br/>4 where did you store these items? What did you do<br/>5 with them?<br/>6 A. Well, I had -- I gave -- I have to<br/>7 give them back the smocks before -- and before I<br/>8 get, you know what I'm saying, before I get my last<br/>9 check, but everything else I kept.<br/>10 Q. Everything else you what?<br/>11 A. I kept them and I throw them away.<br/>12 Q. Did you take your apron home?<br/>13 A. My apron home -- yes, sir.<br/>14 Q. Did you have a locker at the plant?<br/>15 A. No, sir.<br/>16 Q. You didn't? Did you take the sleeves<br/>17 home?<br/>18 A. Yes, sir, because I had to wash all<br/>19 the linens.<br/>20 Q. When you came to work each day, where<br/>21 did you put these items of supplies that you just<br/>22 described for me on?<br/>23 A. When we walked inside the plant,</p> | <p style="text-align: right;">25</p> <p>1 like 7:20 to go in there and wash my boots off and<br/>2 put my supplies on, and it depends on how fast you<br/>3 are before you put your supplies on.<br/>4 Q. What do you mean?<br/>5 A. And I was kind of a little fast of<br/>6 putting my stuff on, so I was on the floor way<br/>7 before 7:30.<br/>8 Q. So you are fast to put on the stuff?<br/>9 A. Uh-huh.<br/>10 Q. So how fast? How long will it take<br/>11 you?<br/>12 A. It will take me about five or six<br/>13 minutes.<br/>14 Q. So you would try and get on the<br/>15 production floor by 7:20, and it took you five to<br/>16 six minutes to put these supplies on?<br/>17 A. Yes, sir.<br/>18 Q. And then you went to your area in<br/>19 DSI?<br/>20 A. Yes, sir.<br/>21 Q. And you were always early?<br/>22 A. Yes, sir.<br/>23 Q. Is that correct? Did other people</p>  |

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| <p style="text-align: right;">26</p> <p>1 come in after you to the production floor to put on</p> <p>2 their supplies?</p> <p>3 A. Yes, sir, it be a lot of people.</p> <p>4 Q. Was it possible to put on any of</p> <p>5 these things while you are walking to the DSI area?</p> <p>6 A. Yes, you can. But mostly you have</p> <p>7 to -- well, the rule was when you put on your</p> <p>8 supplies, you have to go to the water and put soap</p> <p>9 and stuff on it and wash it off and make sure they</p> <p>10 are clean, or whatever, but some people they will</p> <p>11 just walk to the floor putting stuff on, you know,</p> <p>12 walking to the line.</p> <p>13 Q. Were you required to wash it down</p> <p>14 each morning?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Did you use a knife on the job?</p> <p>17 A. No, sir.</p> <p>18 Q. Did you use scissors?</p> <p>19 A. No, sir.</p> <p>20 Q. What sort of safety gloves did you</p> <p>21 wear?</p> <p>22 A. I just wore the cotton gloves, and</p> <p>23 the --</p> | <p style="text-align: right;">28</p> <p>1 Q. When was the 30-minute break?</p> <p>2 A. I really don't know about that one.</p> <p>3 I done forgot.</p> <p>4 Q. Did you have these two breaks, one</p> <p>5 for 15 minutes and one for 30 minutes, over the</p> <p>6 whole six months you worked there?</p> <p>7 A. Yes, sir.</p> <p>8 Q. What was your understanding as to</p> <p>9 whether you were paid for these breaks?</p> <p>10 A. No, sir.</p> <p>11 Q. It was your understanding you were</p> <p>12 not paid for these breaks; is that correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Where did you take your breaks?</p> <p>15 A. Out there in the lobby at the chicken</p> <p>16 plant.</p> <p>17 Q. Pardon?</p> <p>18 A. Out there in the lobby where the</p> <p>19 snack machines and stuff at.</p> <p>20 Q. In the debone break room?</p> <p>21 A. Uh-huh.</p> <p>22 Q. You have to say yes.</p> <p>23 A. Yes, sir. I am sorry.</p>   |
| <p style="text-align: right;">27</p> <p>1 Q. The plastic gloves?</p> <p>2 A. The plastic gloves, yes, sir.</p> <p>3 Q. So you didn't wear any chain mesh</p> <p>4 gloves?</p> <p>5 A. No, because I ain't had to use no</p> <p>6 scissors when I was back there in DSI.</p> <p>7 Q. So when you told me that you wore</p> <p>8 safety gloves, you are referring to the white</p> <p>9 cotton liners and the plastic gloves on top?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did you use any tools or equipment</p> <p>12 when you were on the DSI line?</p> <p>13 A. No, sir.</p> <p>14 Q. How many breaks did you get during</p> <p>15 the day?</p> <p>16 A. Two.</p> <p>17 Q. How long were they?</p> <p>18 A. 30 minutes -- no, the first one was</p> <p>19 15 minutes. The second one was 30 minutes.</p> <p>20 Q. At what time in the morning did you</p> <p>21 get your first 15-minute break?</p> <p>22 A. I think it was at 9:45, if I'm not</p> <p>23 mistaken.</p>   | <p style="text-align: right;">29</p> <p>1 Q. It's all right. How did you know it</p> <p>2 was time to take your break?</p> <p>3 A. Because they -- our supervisor just</p> <p>4 say "break time", when they say "break time" and if</p> <p>5 the meat come down the line, we got to stay on the</p> <p>6 line until all the meat run out, and then we got to</p> <p>7 go take the stuff off and go on break.</p> <p>8 Q. Did some people farther up in the</p> <p>9 line get to leave for break earlier than the people</p> <p>10 down the line?</p> <p>11 A. Yes, sir.</p> <p>12 Q. How did you know it was time to go</p> <p>13 back to work after the break was ended?</p> <p>14 A. Because they have a clock in the</p> <p>15 break room.</p> <p>16 Q. And you just watched the clock?</p> <p>17 A. Uh-huh.</p> <p>18 Q. And what was your understanding as to</p> <p>19 when you had to be back on the line?</p> <p>20 A. We had to be back in line before we</p> <p>21 leave out at 9:45. We had to be back in at -- we</p> <p>22 had to be back in at ten -- I think it was ten,</p> <p>23 something like that. But we had to be back in, and</p> |

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| <p style="text-align: right;">30</p> <p>1 I know they time as we go out. We got to be back</p> <p>2 in before the time that we have to -- the 15</p> <p>3 minutes. We have to be on the line before the meat</p> <p>4 start running on the line.</p> <p>5 Q. So as long as you were on back on the</p> <p>6 line before the meat got there, you were on time?</p> <p>7 A. Yes, sir.</p> <p>8 MR. STEENSLAND: Objection. That</p> <p>9 -- never mind, too late.</p> <p>10 Q. (Mr. Fry) How did you get to work</p> <p>11 each day?</p> <p>12 A. My car.</p> <p>13 Q. Did you have to clear security to get</p> <p>14 into the plant?</p> <p>15 A. No, sir, because we had a little</p> <p>16 sticker thing on our car that they give everyone</p> <p>17 that work at Keystone.</p> <p>18 Q. So am I correct that you just drove</p> <p>19 onto the property?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Were you ever searched in any way?</p> <p>22 A. No, sir.</p> <p>23 Q. Were you ever searched when you left</p>  | <p style="text-align: right;">32</p> <p>1 there and talk to them, and that's it.</p> <p>2 Q. How long did you spend at the supply</p> <p>3 room?</p> <p>4 A. It depends on how long the line is.</p> <p>5 If the line is long, you are going to spend a good</p> <p>6 little minute. So you ain't got no choice but to</p> <p>7 just get your supplies and go straight to the line.</p> <p>8 Q. How long did it take the line to go</p> <p>9 down?</p> <p>10 A. It depends on the people because some</p> <p>11 people they be in the supply room, some of them</p> <p>12 faster than other ones.</p> <p>13 Q. What's the longest you ever waited in</p> <p>14 the supply line?</p> <p>15 A. About 15 minutes.</p> <p>16 Q. What's the shortest?</p> <p>17 A. About six, seven minutes.</p> <p>18 Q. So after the supply room, you went to</p> <p>19 the break room and you waited until it was time for</p> <p>20 you to go on the floor. And I think you told me</p> <p>21 you tried to go on the floor about 7:20?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Did you enter the debone production</p> |
| <p style="text-align: right;">31</p> <p>1 for the day?</p> <p>2 A. No, sir.</p> <p>3 Q. And when you left for the day, could</p> <p>4 you just drive off the property?</p> <p>5 A. Yes, sir.</p> <p>6 Q. What time did you try and get to work</p> <p>7 every day?</p> <p>8 A. Well, I get to work every day about</p> <p>9 seven o'clock.</p> <p>10 Q. Seven o'clock?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Tell me, in as much detail as you can</p> <p>13 remember, what you did from the time you arrived at</p> <p>14 seven o'clock until you started working on the DSI</p> <p>15 line.</p> <p>16 A. Well, when I get there I may -- I go</p> <p>17 in there, clock in. I get -- like if I don't have</p> <p>18 the supplies I need to get, I go get them, and I go</p> <p>19 out the door, sit, talk, or I will go in the break</p> <p>20 room until it's time for me to go in.</p> <p>21 Q. What would you do in the break room?</p> <p>22 A. I will sit down or if I see somebody</p> <p>23 I can talk to, like my mama or somebody, I go over</p> | <p style="text-align: right;">33</p> <p>1 area by going through those double doors right</p> <p>2 across from the debone break room?</p> <p>3 A. No, sir.</p> <p>4 Q. How did you get to your workstation?</p> <p>5 A. When you come into the plant, it's a</p> <p>6 little aisle that you go down on the -- on the left</p> <p>7 hand side. You go down there, and then it's double</p> <p>8 doors right there that you have to go in the DSI.</p> <p>9 Q. So the DSI folks went in a different</p> <p>10 door --</p> <p>11 A. The DSI --</p> <p>12 Q. You have to wait until I am done.</p> <p>13 The DSI folks went on to their production area in a</p> <p>14 different door than the people who worked in the</p> <p>15 debone line?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And you went through a pair of double</p> <p>18 doors?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And was there a foot bath there?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Did you have to stop in that foot</p> <p>23 bath?</p>   |

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| <p style="text-align: right;">34</p> <p>1 A. You have to just stop and just punch<br/>2 the little button, and they will just come on your<br/>3 feet, on your shoes, and then you just go on.<br/>4 Q. How long did that take?<br/>5 A. Not long.<br/>6 Q. Less than a minute?<br/>7 A. Yes, sir.<br/>8 Q. How long does it take you, or did it<br/>9 take you to walk from the break room into the DSI<br/>10 room?<br/>11 A. About three minutes. It's not long,<br/>12 not far.<br/>13 Q. When it was time to take your<br/>14 15-minute break, what did you have to do to get out<br/>15 of the DSI area?<br/>16 A. You have to take out all of your<br/>17 supplies, besides your hair net and ear plugs, and<br/>18 you take your safety glasses with you. That's it.<br/>19 Q. Kept your boots on, right?<br/>20 A. Uh-huh.<br/>21 Q. Did you have to wash those items<br/>22 down?<br/>23 A. Yes, sir. You have to wash the items</p> | <p style="text-align: right;">36</p> <p>1 really don't have any 15-minute break for real.<br/>2 Because I was at the end of the line, and the ones<br/>3 in the front when the meat run on down, that's when<br/>4 we can go. And the ones in the top, they leave out<br/>5 before we do.<br/>6 Q. Did everybody in the DSI area wash<br/>7 down before they went on break?<br/>8 A. No.<br/>9 Q. Were they supposed to?<br/>10 A. Yes.<br/>11 Q. Was there a wait at the wash stand?<br/>12 A. No, sir.<br/>13 Q. At the end of your 15-minute break,<br/>14 tell me what you did to go back to work in terms of<br/>15 your supplies.<br/>16 A. We had to go back in; we have to --<br/>17 well, before we get on the floor, we have to have<br/>18 our safety glasses on, and then we have to go<br/>19 through the shoe sanitizer thing, and then we have<br/>20 to go and put our supplies on and go and wash off<br/>21 again and get the little napkins and rinse the<br/>22 water off, and then we will go back to our section<br/>23 where you work at.</p> |
| <p style="text-align: right;">35</p> <p>1 down before you take them off.<br/>2 Q. And where did you do this?<br/>3 A. In the part -- in the part that we<br/>4 had to work at. We have to walk up there, wash<br/>5 them down, take them off, hang them up.<br/>6 Q. Did the DSI folks have their own wash<br/>7 station?<br/>8 A. Yes, sir.<br/>9 Q. And their own hangers?<br/>10 A. Yes, sir.<br/>11 Q. How many people worked in that area?<br/>12 A. It was a lot of people.<br/>13 Q. About how many?<br/>14 A. I really don't know.<br/>15 Q. More than ten?<br/>16 A. Yes, more than ten.<br/>17 Q. More than 20?<br/>18 A. I'd say about a good 25.<br/>19 Q. How long would it take you from the<br/>20 time you left your workstation until you got into<br/>21 the break room to take your break?<br/>22 A. I'd say about probably a little less<br/>23 than ten minutes because the 15-minute break, we</p>                       | <p style="text-align: right;">37</p> <p>1 Q. Approximately how much time did that<br/>2 take you?<br/>3 A. It don't take no more than about --<br/>4 about five to six minutes.<br/>5 Q. Did you follow generally the same<br/>6 routine to leave and come back when you went on<br/>7 your 30-minute break?<br/>8 A. Yes, sir.<br/>9 Q. Tell me what you did now at the end<br/>10 of the day when it was time to go home and your<br/>11 work was finished.<br/>12 A. Well I go up, wash my little supplies<br/>13 off, get my -- you have to roll them up and pull<br/>14 them all together, and I go drop my smock and my<br/>15 cotton gloves off and put them in a little bin, and<br/>16 I go clock out and leave and go home.<br/>17 Q. When you say "rolling up", are you<br/>18 referring --<br/>19 A. You know, like my sleeves, my apron,<br/>20 and my -- the other gloves I have to put on top of<br/>21 my --<br/>22 Q. Plastic gloves?<br/>23 A. Yes, my plastic gloves.</p>   |



|   |   |
|---|---|
| <p style="text-align: right;">38</p> <p>1 Q. How long did that process take you?</p> <p>2 A. About the same, five to six minutes.</p> <p>3 Q. From the time you left your</p> <p>4 workstation until you clocked out?</p> <p>5 A. Talking about the time I clock out?</p> <p>6 Well, sometimes we will probably be up there at the</p> <p>7 clock machine before time to clock out, but that</p> <p>8 just how long it take me to take all my supplies</p> <p>9 off and to wash them and then make sure they -- all</p> <p>10 the meat and stuff off of them.</p> <p>11 Q. Explain that to me. I don't</p> <p>12 understand. You told me that you would be at the</p> <p>13 clock machine before it's time to clock out.</p> <p>14 A. Yes, sometimes like if the last</p> <p>15 bundle of meat that they put in the machine, and if</p> <p>16 they run out before 4:30, we get to leave when that</p> <p>17 run out, because they cannot put no more meat in</p> <p>18 the machine because second shift got to come in.</p> <p>19 Q. So sometimes you stop working before</p> <p>20 4:30?</p> <p>21 A. Uh-huh.</p> <p>22 Q. Was it your understanding you were</p> <p>23 paid until 4:30, though?</p> | <p style="text-align: right;">40</p> <p>1 A. Yes, sir.</p> <p>2 Q. Did you ever hear the phrase line</p> <p>3 time?</p> <p>4 A. No, sir.</p> <p>5 Q. What about Master Card?</p> <p>6 A. No, sir.</p> <p>7 Q. Did you ever complain to your</p> <p>8 supervisor or to the payroll people that your check</p> <p>9 was short?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And what happened?</p> <p>12 A. He went and corrected it. But if he</p> <p>13 couldn't correct it that day or whatever, he just</p> <p>14 will just put it on our next check.</p> <p>15 Q. How many times did that happen?</p> <p>16 A. It would happen to me about two or</p> <p>17 three times.</p> <p>18 Q. And was it always corrected?</p> <p>19 A. Yes, sir.</p> <p>20 Q. You were paid every week?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And did you look at the payroll</p> <p>23 information on the check stub?</p>   |
| <p style="text-align: right;">39</p> <p>1 A. Yes, sir.</p> <p>2 Q. But am I correct on a normal day it</p> <p>3 took you five or six minutes from the time you</p> <p>4 could leave your workstation until you clocked out?</p> <p>5 A. Yes, sir.</p> <p>6 Q. What was your understanding as to how</p> <p>7 the company kept track of your time in order to pay</p> <p>8 you?</p> <p>9 A. I don't understand.</p> <p>10 Q. Was it your understanding you were</p> <p>11 paid for an eight-hour day?</p> <p>12 A. Yes, sir.</p> <p>13 Q. What was your understanding of when</p> <p>14 -- of how the company kept track of those eight</p> <p>15 hours?</p> <p>16 A. I don't know.</p> <p>17 Q. You understood you were paid for --</p> <p>18 A. For eight hours.</p> <p>19 Q. For eight hours that started at 7:30</p> <p>20 in the morning and ended at 4:30 in the afternoon?</p> <p>21 A. Yes, sir.</p> <p>22 Q. With two unpaid breaks in the middle,</p> <p>23 correct?</p>   | <p style="text-align: right;">41</p> <p>1 A. Yes, sir.</p> <p>2 Q. Did you keep track of the hours that</p> <p>3 you spent in the plant while you were working</p> <p>4 there?</p> <p>5 A. Yes, sir.</p> <p>6 Q. How did you do that?</p> <p>7 A. I just -- I just know how long I</p> <p>8 stayed in there, and I just count up every day just</p> <p>9 to make sure I have my right hours.</p> <p>10 Q. Did you keep any notes or notebook or</p> <p>11 diary of those hours?</p> <p>12 A. No, sir.</p> <p>13 Q. Do you know anybody that did?</p> <p>14 A. No, sir.</p> <p>15 Q. Have you made any calculations as to</p> <p>16 the amount of money you think you are owed in this</p> <p>17 lawsuit?</p> <p>18 A. No, sir.</p> <p>19 Q. Were you ever asked to work overtime?</p> <p>20 A. Yes, sir.</p> <p>21 Q. How often did that happen?</p> <p>22 A. Not often. We will probably work</p> <p>23 some Saturdays, and like if -- like if they need</p> |



|  |   |
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| <p style="text-align: right;">42</p> <p>1 some work caught up, they will ask you could you</p> <p>2 stay for like 30 minutes or hour just to try to</p> <p>3 catch the work up.</p> <p>4 Q. On those occasions when you did work</p> <p>5 overtime, were you paid for that overtime work at</p> <p>6 time-and-a-half?</p> <p>7 A. Yes, sir. But then was the time that</p> <p>8 I had to go to my supervisor to tell him that my</p> <p>9 check wasn't right.</p> <p>10 Q. And did your supervisor fix it for</p> <p>11 you?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Besides those few times where you</p> <p>14 just told me that you complained to your supervisor</p> <p>15 about the short in your paycheck, did you ever at</p> <p>16 any other time complain to any supervisor about any</p> <p>17 pay issues?</p> <p>18 A. No, sir.</p> <p>19 Q. During the time you were there, were</p> <p>20 you ever written up for anything?</p> <p>21 A. No, sir.</p> <p>22 MR. FRY: Thank you. That's all</p> <p>23 I have.</p>    | <p style="text-align: right;">44</p> <p>1 A. Yes, sir.</p> <p>2 Q. And before you swiped your card at</p> <p>3 the end of the day, what was the last thing you</p> <p>4 did?</p> <p>5 A. The last thing I did when I swiped my</p> <p>6 card?</p> <p>7 Q. Before you swiped your card?</p> <p>8 A. I have to put my smock and my cotton</p> <p>9 gloves in this little -- in a little buggy so they</p> <p>10 can come and get them and wash them.</p> <p>11 Q. When you were on break, when the</p> <p>12 break was over, did everybody have to be back at</p> <p>13 the line at the same time?</p> <p>14 A. Yes, sir.</p> <p>15 Q. The chicken is running on this line,</p> <p>16 right?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And I think did you say you were at</p> <p>19 the back of the line?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Could you just wait until that</p> <p>22 chicken got right before you on the line before you</p> <p>23 got there?</p>                    |
| <p style="text-align: right;">43</p> <p>1 THE DEPONENT: Okay.</p> <p>2</p> <p>3 EXAMINATION BY MR. STEENSLAND:</p> <p>4 Q. I think at one in point in time,</p> <p>5 Ms. Person, in speaking with Mr. Fry, you referred</p> <p>6 to shoes that you had to wear home, and at some</p> <p>7 point you had to keep them there. Shoes, is that</p> <p>8 boots that we are referring to?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And at one point in time, you could</p> <p>11 not take your boots home with you; is that right?</p> <p>12 A. No, we could take them home, but we</p> <p>13 just couldn't walk outside in the boots.</p> <p>14 Q. Did that change at some point in</p> <p>15 time?</p> <p>16 A. Yes, sir.</p> <p>17 Q. At some point in time you were able</p> <p>18 to wear them home?</p> <p>19 A. Yes, sir.</p> <p>20 Q. The first thing you did before you</p> <p>21 could begin putting on your equipment that you</p> <p>22 listed, was that to sanitize your boots? Is that</p> <p>23 what I heard you say?</p> | <p style="text-align: right;">45</p> <p>1 A. No, sir, you are not supposed to do</p> <p>2 that.</p> <p>3 Q. What would happen if you waited --</p> <p>4 A. You'd get wrote up.</p> <p>5 MR. FRY: Objection.</p> <p>6 Q. (Mr. Steensland) Did you have to be</p> <p>7 back on the line at the same time the person on the</p> <p>8 front of the line had to be there?</p> <p>9 A. Yes, sir.</p> <p>10 Q. I believe it was mentioned that not</p> <p>11 everybody washed down before break. Do you recall</p> <p>12 saying that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. What would happen if you were caught</p> <p>15 not washing down before break?</p> <p>16 MR. FRY: Objection.</p> <p>17 A. You would get wrote up.</p> <p>18 Q. (Mr. Steensland) Your shift ended at</p> <p>19 4:30; is that right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. You said sometimes the chicken will</p> <p>22 -- I guess the chicken on the line will finish</p> <p>23 getting to you before 4:30?</p> |

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46

1 A. Yes, sir.

2 Q. And they don't make you just stand on

3 the line after that?

4 A. No, sir.

5 Q. What about were there ever occasions

6 where the chicken was still coming after 4:30?

7 A. We have to sit there and wait until

8 it run out, the chicken run out, because we wasn't

9 supposed to leave no chicken on the line when

10 second shift come in.

11 Q. Were there any occasions, if you

12 remember, where the chicken was still coming and

13 still on the line after the 4:30 shift should have

14 ended?

15 A. Yes, sir.

16 Q. Were the boots part of the supplies,

17 I believe was it referred to, was that one of them?

18 A. Yes, sir.

19 MR. STEENSLAND: Nothing further.

20

21 EXAMINATION BY MR. FRY:

22 Q. When you stayed on the line after

23 4:30, do you know whether you were paid for that

47

1 time?

2 A. No, sir, we wasn't.

3 Q. How do you know?

4 A. Because I look at my check.

5 Q. Were you ever asked to stay and work

6 overtime after 4:30?

7 A. Yes, sir.

8 Q. And when that occurred, did you get

9 paid for overtime?

10 A. Yes, sir.

11 Q. Do you know of anyone who was ever

12 written up for failure to get back to the DSI line

13 before the chickens got there?

14 A. Yes, sir.

15 Q. Do you know of anyone who was ever

16 written up for not washing down before break?

17 A. Yes, sir.

18 Q. How many people?

19 A. A lot of them.

20 Q. Are you sure?

21 A. Yes, sir.

22 Q. How do you know they were written

23 up?

48

1 A. Because when they walked back to the

2 line, the supervisor, they will walk around and

3 make sure everybody in their spot. And if they

4 apron and they sleeve gloves or they gloves do not

5 look like they been cleaned, you will know, because

6 they will tell them to get off the line and go wash

7 them. And they will write them up. If you see

8 them with they little pen and their paper, they

9 writing them up.

10 Q. How do you know what they are

11 writing?

12 A. I'm going to tell you the majority of

13 the people that you work with on the line, you-all

14 converse, and they will tell you.

15 MR. FRY: Thank you.

16 MR. STEENSLAND: One last thing.

17

18 EXAMINATION BY MR. STEENSLAND:

19 Q. At any point in time when you were

20 working on the line at DSI, were you asked or

21 instructed prior to beginning your shift to do some

22 type of stretching or exercises?

23 A. Yes, sir, sometimes.

49

1 Q. What were those exercises or

2 stretching?

3 A. We will do this right here, or we

4 will do this right here, or we will like bend like

5 this right here. That's about it.

6 Q. Doing this right here. Obviously, we

7 can't describe that on the record. So is that some

8 type of bending over?

9 A. Yes, bend over.

10 Q. And raising your arms up?

11 A. Raising arm up, raising arm out.

12 Q. So various exercises?

13 A. Yes, sir.

14 Q. How did you know to do this? Who

15 told you to do this?

16 A. The supervisor or the line leader.

17 Q. Were you doing this on your own by

18 yourself, or are other people participating?

19 A. Other people participating.

20 Q. What's your understanding of what

21 would happen if you didn't do it?

22 A. No, sir.

23 Q. What was your understanding of what

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| <p style="text-align: right;">50</p> <p>1 would happen if you chose not to do those exercises</p> <p>2 while everybody else was?</p> <p>3 A. You will get wrote up.</p> <p>4 MR. STEENSLAND: Nothing further.</p> <p>5</p> <p>6 EXAMINATION BY MR. FRY:</p> <p>7 Q. When you did these exercises, where</p> <p>8 were you?</p> <p>9 A. Inside the plant.</p> <p>10 Q. On the line?</p> <p>11 A. Yes, right there by the line.</p> <p>12 Q. Was everybody on the line?</p> <p>13 A. Yes.</p> <p>14 Q. Doing these exercises?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And had the line started to move yet?</p> <p>17 A. No, sir.</p> <p>18 Q. But everybody was on the line, fully</p> <p>19 dressed in their supplies?</p> <p>20 A. Yes, sir.</p> <p>21 Q. So the exercises occurred at or about</p> <p>22 7:30?</p> <p>23 A. Yes, sir.</p> | <p style="text-align: right;">52</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |
| <p style="text-align: right;">51</p> <p>1 MR. FRY: Thank you.</p> <p>2</p> <p>3 EXAMINATION BY MR. STEENSLAND:</p> <p>4 Q. Did sometimes the exercises start</p> <p>5 before 7:30?</p> <p>6 A. Well, it depends. If everybody be on</p> <p>7 the line, it will start.</p> <p>8 Q. So if everybody was on the line</p> <p>9 before 7:30, were there times when the exercises</p> <p>10 started before 7:30?</p> <p>11 A. Yes, sir.</p> <p>12 MR. STEENSLAND: Nothing further.</p> <p>13 MR. FRY: Nothing further.</p> <p>14 9:39 a.m.</p> <p>15 *****</p> <p>16 FURTHER DEPONENT SAITH NOT</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |  |

**TAB 44**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

CASE NUMBER: 2:06-CV-01081-MEF-DRB

BETTY ANN BURKS, ET AL.,

Plaintiffs,

vs.

EQUITY GROUP, EUFAULA DIVISION, L.L.C.,

Defendant.

S T I P U L A T I O N

IT IS STIPULATED AND AGREED by and  
between the parties through their respective  
counsel, that the deposition of Joseph  
Preston may be taken before Sara Mahler,  
CCR, at the offices of Williams, Pothoff,  
Williams & Smith, at 125 South Orange  
Avenue, Eufaula, Alabama 36027, on the 12th  
day of June, 2008.

DEPOSITION OF JOSEPH PRESTON

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| <p style="text-align: right;">2</p> <p>1 IT IS FURTHER STIPULATED AND<br/>2 AGREED that the signature to and the reading<br/>3 of the deposition by the witness is not<br/>4 waived, the deposition to have the same<br/>5 force and effect as if full compliance had<br/>6 been had with all laws and rules of Court<br/>7 relating to the taking of depositions.<br/>8 IT IS FURTHER STIPULATED AND<br/>9 AGREED that it shall not be necessary for<br/>10 any objections to be made by counsel to any<br/>11 questions except as to form or leading<br/>12 questions, and that counsel for the parties<br/>13 may make objections and assign grounds at<br/>14 the time of the trial, or at the time said<br/>15 deposition is offered in evidence, or prior<br/>16 thereto.<br/>17 IT IS FURTHER STIPULATED AND<br/>18 AGREED that the notice of filing of the<br/>19 deposition by the Commissioner is waived.<br/>20<br/>21 *****<br/>22<br/>23</p> | <p style="text-align: right;">4</p> <p>1 IN THE UNITED STATES DISTRICT COURT<br/>2 FOR THE MIDDLE DISTRICT OF ALABAMA<br/>3 MONTGOMERY DIVISION<br/>4<br/>5 CASE NUMBER: 2:06-CV-01081-MEF-DRB<br/>6<br/>7 BETTY ANN BURKS, ET AL.,<br/>8 Plaintiffs,<br/>9 vs.<br/>10 EQUITY GROUP EUFAULA DIVISION, L.L.C.,<br/>11 Defendant.<br/>12<br/>13 BEFORE:<br/>14 SARA MAHLER, Commissioner.<br/>15<br/>16 APPEARANCES:<br/>17 CANDIS A. MCGOWAN, ESQUIRE, of<br/>18 WIGGINS, CHILDS, QUINN &amp; PANTAZIS, 301<br/>19 Nineteenth Street North, Birmingham, Alabama<br/>20 35203, appearing on behalf of the<br/>21 Plaintiffs.<br/>22<br/>23</p>   |
| <p style="text-align: right;">3</p> <p>1 *****<br/>2 INDEX<br/>3 EXAMINATION<br/>4 PAGE<br/>5 By Ms. McGowan ..... 6<br/>6<br/>7 PLAINTIFF'S EXHIBITS<br/>8 PAGE<br/>9 Exhibit 23 - Time edits ..... 10<br/>10<br/>11 (Exhibit Retained By Attorney)<br/>12<br/>13 *****<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23</p>  | <p style="text-align: right;">5</p> <p>1 APPEARANCES: (Cont.)<br/>2 JACOB A. KISER, ESQUIRE, of<br/>3 WIGGINS, CHILDS, QUINN &amp; PANTAZIS, 301<br/>4 Nineteenth Street North, Birmingham, Alabama<br/>5 35203, appearing on behalf of the<br/>6 Plaintiffs.<br/>7 ROBERT J. CAMP, ESQUIRE, of THE<br/>8 COCHRAN FIRM, 505 North 20th Street, Suite<br/>9 825, Birmingham, Alabama 35203, appearing on<br/>10 behalf of the Plaintiffs.<br/>11 HOWARD A. ROSENTHAL, ESQUIRE, of<br/>12 PELINO &amp; LENTZ, 1650 Market Street,<br/>13 Thirty-Second Floor, Philadelphia,<br/>14 Pennsylvania 19103, appearing on behalf of<br/>15 the Defendant.<br/>16 *****<br/>17 I, SARA MAHLER, CCR, a Court<br/>18 Reporter of Wetumpka, Alabama, acting as<br/>19 Commissioner, certify that on this date, as<br/>20 provided by the Federal Rules of Civil<br/>21 Procedure and the foregoing stipulation of<br/>22 counsel, there came before me at the offices<br/>23 of Williams, Pothoff, Williams &amp; Smith, 125</p> |

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| <p style="text-align: right;">6</p> <p>1 South Orange Avenue, Eufaula, Alabama 36027,<br/>2 beginning at 4:45 p.m., Joseph Preston,<br/>3 witness in the above cause, for oral<br/>4 examination, whereupon the following<br/>5 proceedings were had:<br/>6 JOSEPH PRESTON,<br/>7 Being first duly sworn, was examined and<br/>8 testified as follows:<br/>9 COURT REPORTER: Usual<br/>10 stipulations?<br/>11 MS. MCGOWAN: Yes.<br/>12 MR. ROSENTHAL: We'll reserve<br/>13 reading and signing.<br/>14 EXAMINATION<br/>15 BY MS. MCGOWAN:<br/>16 Q. Would you state your name for<br/>17 the Record, please.<br/>18 A. Full name?<br/>19 Q. Yes.<br/>20 A. Charles Joseph Preston.<br/>21 Q. Mr. Preston, where are you<br/>22 employed?<br/>23 A. The Equity Group, Eufaula</p> | <p style="text-align: right;">8</p> <p>1 A. Yes.<br/>2 Q. Can we have the agreement that<br/>3 if you don't understand me, or my question,<br/>4 you will ask me to repeat or rephrase the<br/>5 question?<br/>6 A. I will.<br/>7 Q. Can we also have the agreement<br/>8 that if you don't hear me, you will ask me<br/>9 to repeat or rephrase the question?<br/>10 A. I will.<br/>11 Q. Can we further have an<br/>12 agreement that if you don't ask me to<br/>13 rephrase or repeat the question, that you<br/>14 heard my question, you understand my<br/>15 question, and you are giving me the best<br/>16 possible answer to that question?<br/>17 A. Yes.<br/>18 Q. What did you do to prepare for<br/>19 this deposition?<br/>20 A. I guess I don't understand the<br/>21 question.<br/>22 Q. Did you do anything to prepare<br/>23 for this deposition?</p> |
| <p style="text-align: right;">7</p> <p>1 Division.<br/>2 Q. In what position?<br/>3 A. Controller.<br/>4 Q. How long have you been<br/>5 employed with Equity Group, Eufaula<br/>6 Division, as controller?<br/>7 A. Since August '04.<br/>8 Q. My name is Candis McGowan.<br/>9 I'm going to be taking your deposition this<br/>10 afternoon and asking you a series of<br/>11 questions.<br/>12 Have you ever had your<br/>13 deposition taken before today?<br/>14 A. Yes.<br/>15 On other matters, you mean?<br/>16 Q. Yes.<br/>17 A. Yes.<br/>18 Q. Do you understand that you<br/>19 need to give a verbal response so the court<br/>20 reporter can make a Record?<br/>21 A. Yes.<br/>22 Q. And not shake your head yes or<br/>23 no?</p>                                  | <p style="text-align: right;">9</p> <p>1 A. Basically, my preparation is<br/>2 the job that I do. I have discussed with<br/>3 our attorneys.<br/>4 Q. Did you review any<br/>5 documents -- I don't need to discuss what<br/>6 you did with your attorney. That's why I<br/>7 cut you off.<br/>8 Have you discussed your<br/>9 deposition with anyone other than the<br/>10 attorneys?<br/>11 A. No.<br/>12 Q. Did you review any documents?<br/>13 A. These time edits I reviewed.<br/>14 Q. You reviewed those?<br/>15 A. Yes.<br/>16 (Whereupon, Plaintiff's<br/>17 Exhibit No. 23 was marked<br/>18 for identification.)<br/>19 Q. And we've marked those as<br/>20 Plaintiff's Exhibit --<br/>21 MR. ROSENTHAL: 23.<br/>22 Q. -- 23. Is that -- When you<br/>23 say you reviewed these time edits, are these</p>   |



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| <p>1 the time edits you reviewed (indicating)?<br/>2 A. Yes.<br/>3 Q. All right. And this is --<br/>4 Tell me what these are, Plaintiff's Exhibit<br/>5 23 to your deposition.<br/>6 A. This is department 6OE, breast<br/>7 deboning, second shift. The top half<br/>8 section of the front page is what we call<br/>9 the master of the line time.<br/>10 Q. Okay. Backup just a second.<br/>11 Where do you see the department number?<br/>12 A. Right where it says: Employee<br/>13 6OE.<br/>14 Q. Okay. That's debone?<br/>15 A. Breast deboning, yes.<br/>16 Q. Does each department have a<br/>17 number like 6OE.<br/>18 A. Yes.<br/>19 Q. So this is the master card<br/>20 time?<br/>21 A. Correct. The top half.<br/>22 Q. Are these records that you<br/>23 produced -- these thirteen pages, what does</p>                              | <p>1 Q. Supervisor in debone?<br/>2 A. Yes.<br/>3 Q. What is the process of these<br/>4 records?<br/>5 A. Okay. We have a time keeping<br/>6 system that's called Kronos.<br/>7 Q. Yes.<br/>8 A. Our employees swipe their<br/>9 badges when they come in, when they go out,<br/>10 and that produces the records starting with<br/>11 the bottom half with Jacqueline Cooper.<br/>12 This is accumulated within our<br/>13 system, and this is the one for the end of<br/>14 the week. So this accumulates all<br/>15 information, including the master card time,<br/>16 and at the end of the week we -- We produce<br/>17 these every day for the supervisor's review,<br/>18 but this is the one we actually pay from<br/>19 that they approve, that they approved that<br/>20 these times are correct.<br/>21 Q. Who is they?<br/>22 A. Supervisors, M. Smith.<br/>23 Q. Okay. Other than what's the</p> |
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| <p>1 this thirteen-page document reflect?<br/>2 A. The top half is the master<br/>3 card line time; after that are the<br/>4 individual employees that are in that<br/>5 department for that week.<br/>6 Q. And this is for the week of?<br/>7 A. Let's see. June the 9th. It<br/>8 would have been the prior week.<br/>9 Q. Okay.<br/>10 A. The first week of June.<br/>11 Q. So there's a stamp on it that<br/>12 says: June 9th, 2008. Do you know who put<br/>13 that received stamp on here?<br/>14 A. Well, the computer -- When we<br/>15 execute these documents, that's the date<br/>16 they were executed.<br/>17 Q. I'm talking about the<br/>18 receipt --<br/>19 A. Okay. This is the accounting<br/>20 stamp when it comes back to us approved.<br/>21 Q. Who is M. Smith?<br/>22 A. That's a supervisor in that<br/>23 department.</p> | <p>1 Exhibits marked as 2- -- Exhibit 23, did you<br/>2 review any other Kronos reports before -- to<br/>3 decide which ones to bring to the<br/>4 deposition?<br/>5 A. No.<br/>6 Q. Okay. Where did you get this<br/>7 report?<br/>8 A. From one of my payroll clerks.<br/>9 Q. Did she give you more than<br/>10 just this report?<br/>11 A. I said: I need a department,<br/>12 deboning department, for our most current<br/>13 week that would be indicative of a line time<br/>14 department with the employees attached.<br/>15 Q. Okay. When you said<br/>16 indicative, what do you mean by that?<br/>17 A. Representative. It didn't<br/>18 matter which one it would be. She --<br/>19 Q. Who is she?<br/>20 A. Her name is Wakeela Glanton.<br/>21 Q. What's her title?<br/>22 A. Payroll clerk.<br/>23 Q. Why did you say debone?</p>   |

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| <p style="text-align: right;">14</p> <p>1 A. Howard asked me to get a<br/>2 deboning department time record.<br/>3 Q. This department number, how<br/>4 many of these are in debone? How many<br/>5 reports like Exhibit 23 do you get for the<br/>6 debone department per week?<br/>7 A. I don't know.<br/>8 Q. Is there more than one?<br/>9 A. Oh, sure. We have time<br/>10 reports on fifteen hundred employees.<br/>11 Q. I know. But is it done by a<br/>12 department like this?<br/>13 A. Yes.<br/>14 Q. Okay. So is there like three<br/>15 or four printouts like Exhibit 23 for<br/>16 debone --<br/>17 A. We have.<br/>18 Q. -- per week?<br/>19 A. We have eight debone lines,<br/>20 and each of those have two shifts, so we<br/>21 would have -- on this particular area of the<br/>22 plant, we would have sixteen.<br/>23 Q. Does this Exhibit 23 represent</p> | <p style="text-align: right;">16</p> <p>1 Q. Look up here at the top of the<br/>2 page --<br/>3 A. That says line 5 up there.<br/>4 Q. Would that be a way to tell?<br/>5 A. Sounds good, yes. I would say<br/>6 that would be a better description. That<br/>7 would be 6OE second shift, debone line 5.<br/>8 Q. Now --<br/>9 A. Thank you.<br/>10 Q. The master card time at the<br/>11 top, it appears that it's an automatic start<br/>12 up time of 4:30?<br/>13 A. (Witness nods head in the<br/>14 affirmative.)<br/>15 Q. Is that preset in the computer<br/>16 or does the --<br/>17 A. No, it's not preset. That is<br/>18 the scheduled walk-on/walk-off time for --<br/>19 for first to second shift. So first shift<br/>20 always walks off at 4:30 and second shift<br/>21 walks on. That -- And the reason it's not<br/>22 preset is because that can change. So if we<br/>23 change the production schedule for some</p>                        |
| <p style="text-align: right;">15</p> <p>1 a shift -- a line and a shift in debone?<br/>2 A. Yes.<br/>3 Q. Okay. Which shift, can you<br/>4 tell?<br/>5 A. Two.<br/>6 Q. Second shift?<br/>7 A. Second.<br/>8 Q. And can you tell which line?<br/>9 A. No, I can't.<br/>10 Q. Is there a way for someone<br/>11 else to tell which line it is?<br/>12 A. Sure. Sure.<br/>13 Q. How would they tell?<br/>14 A. Well, I manage the payroll<br/>15 department. It comes under the controller's<br/>16 office. I have people that work with these<br/>17 every day, and they can -- they are<br/>18 obviously the ones that are directly<br/>19 involved on a daily basis and know more<br/>20 about -- this debone 1-2 means something,<br/>21 but I can't say that it's line 1 and 2, or<br/>22 it's line 1, and a sub -- the 2 is a sub off<br/>23 of that.</p>                      | <p style="text-align: right;">17</p> <p>1 reason, that could change.<br/>2 Q. Okay. Look at the master card<br/>3 at the top that's for this week of June 2nd<br/>4 through June 6th. There are no in punch<br/>5 times except on the first day at 4:30.<br/>6 A. Right.<br/>7 Q. So is that just the scheduled<br/>8 time every day for 4:30 for this week?<br/>9 A. It is 4:30 every day.<br/>10 When I asked for these records<br/>11 today and I looked at that and I said, why<br/>12 is it only there once, okay? We went<br/>13 back -- We had an upgrade in the Kronos<br/>14 program at the end of March. And before the<br/>15 upgrade, it showed up every day, 4:30, but<br/>16 now it shows up once.<br/>17 Q. Is the supervisor actually<br/>18 clocking in at 4:30 every day?<br/>19 A. No. This is a set time every<br/>20 day.<br/>21 Q. In the computer?<br/>22 A. No. This is a set time every<br/>23 day that my department -- my payroll</p> |

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| <p>18</p> <p>1 department keys in every day provided that<br/>2 is still the start time.<br/>3 Q. So the supervisor doesn't have<br/>4 to clock in at the beginning of the shift?<br/>5 A. That's right.<br/>6 Q. All right. So it's a set<br/>7 time --<br/>8 A. Yes.<br/>9 Q. -- to start the shift. Is<br/>10 that in every department on the production<br/>11 line in debone?<br/>12 A. Yes.<br/>13 Q. How about evisc, is that in --<br/>14 the start time every -- a set time in every<br/>15 department?<br/>16 A. I'm not sure.<br/>17 Q. What about live hang, that<br/>18 area?<br/>19 A. In the morning, there's a set<br/>20 start time for live hang and evisc, okay?<br/>21 similar to this being the 4:30 for debone,<br/>22 okay?<br/>23 I'm not sure if at the end of</p>   | <p>20</p> <p>1 are paid on a clock-in/clock-out of their<br/>2 personal clock time?<br/>3 A. We have employees like that.<br/>4 I can't name any for you.<br/>5 Q. Do you know the job positions?<br/>6 A. No.<br/>7 Q. Who would know that?<br/>8 A. That information is within --<br/>9 If I were in my office and somebody asked me<br/>10 that question, I could go find out. But I<br/>11 can't do that from here.<br/>12 Q. What would you do to find out?<br/>13 A. Ask.<br/>14 Q. Who would you ask?<br/>15 A. I'd start with my payroll<br/>16 manager.<br/>17 Q. And that is?<br/>18 A. Shauna Bouterse.<br/>19 Q. Spell that for the Record.<br/>20 A. B-O-U-T-E-R-S-E.<br/>21 Q. And Shauna, can you spell that<br/>22 for the court reporter?<br/>23 A. S-H-A-U-N-A.</p> |
| <p>19</p> <p>1 that shift it's a walk-on/walk-off like<br/>2 deboning is or not.<br/>3 Q. Any other departments that are<br/>4 production workers that have a set time? We<br/>5 talked about live hang, evisc, debone. Am I<br/>6 missing a department?<br/>7 A. Well, we have a lot of other<br/>8 departments, okay, and I can't list those<br/>9 for you through --<br/>10 Q. Do you know --<br/>11 A. -- memory. Each one can be --<br/>12 I mean, they can be the same as each other,<br/>13 they can be different, depending on our<br/>14 production.<br/>15 Q. But do you know any other<br/>16 department in which production hourly<br/>17 employees work that do not have a set start<br/>18 time to begin -- start the shift?<br/>19 A. That do not have a set start<br/>20 time?<br/>21 Q. Yes.<br/>22 A. I can't say that I do.<br/>23 Q. Do you know any employees that</p> | <p>21</p> <p>1 Q. Is it a fair statement that<br/>2 the majority of the employees on the<br/>3 production line, the hourly employees, are<br/>4 paid from a preset start time, and then the<br/>5 master card clock-out time?<br/>6 A. More than -- The majority of<br/>7 the entire complex or the fresh plant?<br/>8 Q. Fresh plant.<br/>9 A. Okay. I don't think I could<br/>10 say.<br/>11 Q. Who could say?<br/>12 A. I could, if I had -- if I had<br/>13 the --<br/>14 MR. ROSENTHAL: The question<br/>15 was who could say?<br/>16 THE WITNESS: Who could say?<br/>17 A. I don't know.<br/>18 Q. You don't know who would know?<br/>19 A. No.<br/>20 Q. Could you research it to find<br/>21 out?<br/>22 A. Yes.<br/>23 Q. What would you have to do to</p>                   |

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| <p style="text-align: right;">22</p> <p>1 research?</p> <p>2 A. Just know the question.</p> <p>3 Q. I mean to know which --</p> <p>4 whether the majority of the employees are</p> <p>5 paid in the fresh plant on a preset time to</p> <p>6 master card clock out?</p> <p>7 A. Go to -- Go through the -- I</p> <p>8 mean, we have so many employees and so many</p> <p>9 managers and clerks and so on and so forth</p> <p>10 that I know who to start with, and I</p> <p>11 don't -- I would go to individuals and to</p> <p>12 records until I was able to get to the</p> <p>13 answer.</p> <p>14 Q. Has anyone -- Let me show you</p> <p>15 what was marked as Plaintiff's Exhibit</p> <p>16 Number 21. Have you seen this document</p> <p>17 before today?</p> <p>18 A. No.</p> <p>19 Oh, excuse me.</p> <p>20 THE WITNESS: Can I ask you a</p> <p>21 question?</p> <p>22 MR. ROSENTHAL: Let's step</p> <p>23 outside.</p>   | <p style="text-align: right;">24</p> <p>1 (Requested portion of the</p> <p>2 Record was read by the</p> <p>3 Reporter.)</p> <p>4 A. I don't recall seeing this</p> <p>5 document.</p> <p>6 Q. You don't recall it.</p> <p>7 A. (Witness shakes head in the</p> <p>8 negative.)</p> <p>9 Q. You don't recall it? Were you</p> <p>10 informed that you were being put up as the</p> <p>11 corporate representative on certain areas of</p> <p>12 testimony?</p> <p>13 A. Could you repeat that, please?</p> <p>14 Q. Are you aware that you are</p> <p>15 here today testifying as the representative</p> <p>16 of Equity Foods for certain areas of</p> <p>17 testimony?</p> <p>18 A. Yes.</p> <p>19 Q. And were you informed that you</p> <p>20 would be knowledgeable about these areas of</p> <p>21 testimony?</p> <p>22 A. Yes.</p> <p>23 Q. All right. Let's look at</p>  |
| <p style="text-align: right;">23</p> <p>1 MS. MCGOWAN: There's a</p> <p>2 question on the table.</p> <p>3 MR. ROSENTHAL: I think it has</p> <p>4 to do with whether there's a privilege that</p> <p>5 can be asserted.</p> <p>6 A. I need to ask him a question</p> <p>7 about this document.</p> <p>8 Q. Okay. But my question is have</p> <p>9 you seen this document before today? That's</p> <p>10 my question. That's a yes or no. I don't</p> <p>11 think there's a privilege involved in that.</p> <p>12 MR. ROSENTHAL: We're stepping</p> <p>13 outside.</p> <p>14 MS. MCGOWAN: Let the Record</p> <p>15 reflect that there's a question on the</p> <p>16 floor, and I think it's proper that I get a</p> <p>17 yes or no before you go talk about</p> <p>18 privilege. I didn't ask anything about a</p> <p>19 privilege; all I've asked is have you seen</p> <p>20 it. There's no privilege on the floor.</p> <p>21 (Recess taken.)</p> <p>22 MR. ROSENTHAL: Can you read</p> <p>23 the question back?</p> | <p style="text-align: right;">25</p> <p>1 Exhibit 21. And you are being listed here</p> <p>2 as knowledgeable about subject two.</p> <p>3 MR. ROSENTHAL: Objection to</p> <p>4 the form of the question since it's limited</p> <p>5 to particular parts of question two. Area</p> <p>6 two.</p> <p>7 Q. Look at area two. It says:</p> <p>8 That you are being designated as a</p> <p>9 representative that is knowledgeable about</p> <p>10 these areas as it relates to maintenance of</p> <p>11 records. Do you see area two?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have any information or</p> <p>14 knowledge about the maintenance of records</p> <p>15 on Equity's policies and practices regarding</p> <p>16 the maintenance of records of hours worked</p> <p>17 and wages paid for nonexempt workers at the</p> <p>18 chicken processing plant, including the</p> <p>19 positions of persons involved in formulating</p> <p>20 the policies; what training, if any, is</p> <p>21 provided to inform employees and supervisors</p> <p>22 of these policies; and what measures, if</p> <p>23 any, are taken to ensure compliance to these</p> |

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| <p style="text-align: right;">26</p> <p>1 policies.</p> <p>2 So you're being designated on</p> <p>3 the maintenance of records.</p> <p>4 A. Okay.</p> <p>5 Q. All right. How are the --</p> <p>6 What is your understanding of how the</p> <p>7 records are maintained on the hours worked</p> <p>8 and wages paid, for nonexempt employees? Is</p> <p>9 there a written policy on how long records</p> <p>10 are maintained?</p> <p>11 A. Yes.</p> <p>12 Q. What is that policy called?</p> <p>13 A. Seven years.</p> <p>14 Q. And where are these records</p> <p>15 maintained?</p> <p>16 A. In a storage building on</p> <p>17 the -- at the complex location.</p> <p>18 Q. And when you say complex</p> <p>19 location, what do you mean by that?</p> <p>20 A. At our address, at 57 Melvin</p> <p>21 Clark Road, Bakerhill.</p> <p>22 Q. Do you mean the complex that's</p> <p>23 the fresh plant and the further processing</p> | <p style="text-align: right;">28</p> <p>1 plant?</p> <p>2 A. Yes.</p> <p>3 Q. In what form are they</p> <p>4 maintained?</p> <p>5 A. The form in Exhibit 23.</p> <p>6 Q. This is a weekly report?</p> <p>7 A. Yes.</p> <p>8 Q. 23 is? Is there a monthly</p> <p>9 report done such as 23?</p> <p>10 A. No.</p> <p>11 Q. When you say maintained by</p> <p>12 month, do you take all the reports from a</p> <p>13 week and put them in some kind of monthly</p> <p>14 document or a folder or what do you mean by</p> <p>15 that?</p> <p>16 A. In a folder.</p> <p>17 Q. Okay. Are these folders</p> <p>18 labeled?</p> <p>19 A. Yes.</p> <p>20 Q. So if I wanted to go into the</p> <p>21 storage room, I could pull a folder that</p> <p>22 says the week of August 5, 2007?</p> <p>23 A. Yes.</p>  |
| <p style="text-align: right;">27</p> <p>1 plant?</p> <p>2 A. Yes.</p> <p>3 Q. Is there anything else in the</p> <p>4 complex at that location?</p> <p>5 A. Yes.</p> <p>6 Q. What else?</p> <p>7 A. We have -- We have a waste</p> <p>8 water and laboratory buildings. We have a</p> <p>9 live haul manager's building, employment</p> <p>10 office, an HR building, and I believe that's</p> <p>11 it.</p> <p>12 Q. Okay. Are the records of the</p> <p>13 hours worked and wages paid for the</p> <p>14 nonexempt workers in the production plant,</p> <p>15 either the further processing or the fresh</p> <p>16 plant, are those maintained separately from</p> <p>17 the other workers' records?</p> <p>18 A. No.</p> <p>19 Q. All right. How are they all</p> <p>20 maintained?</p> <p>21 A. They're maintained by week and</p> <p>22 by month.</p> <p>23 Q. For all employees of the</p>                                       | <p style="text-align: right;">29</p> <p>1 Q. If that was -- Is it beginning</p> <p>2 date or ending date for the week?</p> <p>3 A. I'm not sure.</p> <p>4 Q. Okay. And that folder would</p> <p>5 have these records, such as Exhibit 23, for</p> <p>6 every job position that uses the Kronos time</p> <p>7 at the plant or would it be for every</p> <p>8 employee?</p> <p>9 A. Every employee.</p> <p>10 Q. Is every employee on the</p> <p>11 Kronos system?</p> <p>12 A. No.</p> <p>13 Q. What employees are on the</p> <p>14 Kronos system?</p> <p>15 A. I can't -- I couldn't answer</p> <p>16 that.</p> <p>17 Q. Who could answer that?</p> <p>18 A. Someone in my department.</p> <p>19 Q. Are there any production</p> <p>20 workers on the production line, the hourly</p> <p>21 workers, that are not on the Kronos system?</p> <p>22 A. Not to my knowledge.</p> <p>23 Q. What other type reports would</p> |

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| <p style="text-align: right;">30</p> <p>1 be in that week ending, other than a Kronos<br/>2 report like this, in that weekly folder --<br/>3 or monthly folder, I think is what you said?<br/>4 A. If they're not on the Kronos<br/>5 system, it would be another form of<br/>6 documentation to represent the time they<br/>7 worked that week.<br/>8 Q. What kind of documentation?<br/>9 A. A time sheet of some sort.<br/>10 Q. Would these be manually done?<br/>11 A. Could be, yes.<br/>12 Q. Is there another payroll<br/>13 system you use?<br/>14 A. No.<br/>15 Q. Does debone department on<br/>16 second shift normally work overtime?<br/>17 MR. ROSENTHAL: Objection to<br/>18 the form of the question. You can answer.<br/>19 Q. You can answer.<br/>20 A. Restate the question, please.<br/>21 Q. Does the debone department on<br/>22 second shift normally work overtime?<br/>23 A. I don't know.</p> | <p style="text-align: right;">32</p> <p>1 Q. Why would they be telling you<br/>2 that a department is working overtime?<br/>3 A. It's a report that I requested<br/>4 to be assembled and e-mailed to me weekly.<br/>5 Q. When did you make this<br/>6 request?<br/>7 A. I don't know.<br/>8 Q. Has it been -- this request<br/>9 been in effect for more than a year?<br/>10 A. Yes.<br/>11 Q. Two years?<br/>12 A. Yes.<br/>13 Q. Three years?<br/>14 A. Yes.<br/>15 Q. Four years?<br/>16 A. No. I haven't been there four<br/>17 years.<br/>18 Q. When you came on, did you make<br/>19 this request?<br/>20 A. Yes.<br/>21 Q. So you get a weekly report<br/>22 e-mailed to you on what departments are<br/>23 working overtime?</p>   |
| <p style="text-align: right;">31</p> <p>1 Q. Okay. Who would know?<br/>2 A. Someone in my department.<br/>3 Q. Do you review the time reports<br/>4 to see which departments are working a lot<br/>5 of overtime?<br/>6 A. No.<br/>7 Q. Who does that?<br/>8 A. Someone in my department.<br/>9 Q. Does anybody report to you<br/>10 what departments are working overtime?<br/>11 A. Yes.<br/>12 Q. What person reports that to<br/>13 you?<br/>14 A. It could be anyone in my<br/>15 payroll department.<br/>16 Q. Is there, like, a weekly<br/>17 meeting or monthly meeting where you discuss<br/>18 what departments are working overtime with<br/>19 the people in your department?<br/>20 A. No.<br/>21 Q. Is there a staff meeting where<br/>22 they make these reports to you?<br/>23 A. No.</p>  | <p style="text-align: right;">33</p> <p>1 A. Yes.<br/>2 Q. In reviewing these weekly<br/>3 reports that are sent to you, is second<br/>4 shift debone one of the departments that<br/>5 usually has overtime?<br/>6 A. I don't know.<br/>7 Q. What departments -- Are there<br/>8 any departments that usually have overtime?<br/>9 A. I can't answer without a<br/>10 report in front of me.<br/>11 Q. So you're telling me that you<br/>12 look at these reports every week, and<br/>13 there's not one department that usually<br/>14 triggers overtime, that comes up with having<br/>15 overtime a lot more than other departments?<br/>16 A. No.<br/>17 Q. Do you recall any department<br/>18 that usually has overtime?<br/>19 A. No.<br/>20 Q. What day of the week do you<br/>21 get these reports e-mailed to you?<br/>22 A. Wednesday.<br/>23 Q. And today is Thursday;</p> |



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| <p>1 correct?<br/>2 A. (Witness nods head in the<br/>3 affirmative.)<br/>4 Q. Did you review a report<br/>5 yesterday?<br/>6 A. No.<br/>7 Q. Have you reviewed a report<br/>8 today?<br/>9 A. No.<br/>10 Q. When do you review the reports<br/>11 that are e-mailed to you on Wednesday?<br/>12 A. Tuesday.<br/>13 Q. You review them Tuesday? The<br/>14 following Tuesday?<br/>15 A. Yes.<br/>16 Q. You have them almost a week<br/>17 before you review them?<br/>18 A. Yes.<br/>19 Q. All right. On Tuesday of this<br/>20 week, which was two days ago, did you review<br/>21 a report?<br/>22 A. Yes.<br/>23 Q. Do you recall which</p>   | <p>1 A. 1969.<br/>2 Q. Do you have your CPA?<br/>3 A. No.<br/>4 Q. Do you have any certification?<br/>5 A. No.<br/>6 Q. What are your duties or<br/>7 responsibilities as comptroller?<br/>8 A. The same duties that go with<br/>9 any comptroller's job.<br/>10 Q. What are those duties?<br/>11 A. To oversee the accounting.<br/>12 Q. Would it be an accurate<br/>13 statement to say that you're pretty good<br/>14 with numbers?<br/>15 A. Yes.<br/>16 Q. But you can't recall any<br/>17 department that you looked at two days ago<br/>18 that had overtime?<br/>19 A. No.<br/>20 Q. And what do you use this<br/>21 information in overtime for?<br/>22 A. As a trend.<br/>23 Q. What kind of trend?</p>                   |
| 35  | 37  |
| <p>1 departments had overtime?<br/>2 A. No.<br/>3 Q. How many departments are in<br/>4 this report?<br/>5 A. Several.<br/>6 Q. How many?<br/>7 A. I can't say.<br/>8 Q. How are they broken down? By<br/>9 departments?<br/>10 A. By name and number.<br/>11 Q. Is this the whole complex?<br/>12 A. Yes.<br/>13 Q. Do you recall any department<br/>14 in the fresh plant that had overtime?<br/>15 A. No.<br/>16 Q. Let's back up a little bit.<br/>17 What is your educational background?<br/>18 A. Bachelor's degree in<br/>19 accounting.<br/>20 Q. From where?<br/>21 A. University of Kentucky.<br/>22 Q. When did you receive your<br/>23 bachelor's degree in accounting?</p> | <p>1 A. A overtime trend, graph.<br/>2 Q. Who prepares the overtime<br/>3 trend, graph?<br/>4 A. I do.<br/>5 Q. When was the last graph that<br/>6 you prepared?<br/>7 A. Monday.<br/>8 Q. And how is the graph done? Is<br/>9 it reflected by department, or what does it<br/>10 reflect?<br/>11 A. No. It's the total.<br/>12 Q. For the whole plant?<br/>13 A. Yes. For the whole complex.<br/>14 Q. Whole complex. And what is<br/>15 the trend on the graph that you prepared<br/>16 Monday?<br/>17 A. I don't know how to answer<br/>18 that question.<br/>19 Q. What does the graph reflect?<br/>20 A. I'm sorry, what was that<br/>21 question?<br/>22 Q. What does the graph reflect?<br/>23 A. It reflects the actual</p> |



| 38   | 40   |
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| <p>1 overtime by week of the total complex.<br/>2 Q. By week?<br/>3 A. (Witness nods head in the<br/>4 affirmative.)<br/>5 Q. For what period of time?<br/>6 A. The graph is for one year.<br/>7 Q. The graph you prepared Monday,<br/>8 what period of time was it?<br/>9 A. It would have been the current<br/>10 year to date.<br/>11 Q. And what does the trend show<br/>12 for the current year to date?<br/>13 A. It shows the weekly pattern of<br/>14 the actual overtime.<br/>15 Q. And what was the -- What is<br/>16 the weekly pattern in the graph you drew<br/>17 Monday?<br/>18 A. There's not -- There's not<br/>19 a -- There's not a trend.<br/>20 Q. What do you mean there's not a<br/>21 trend?<br/>22 A. This graph are points in time<br/>23 that show what each week standing by itself,</p> | <p>1 Q. What do you do with this<br/>2 graph?<br/>3 A. It's for management review.<br/>4 Q. What management?<br/>5 A. Staff, senior staff.<br/>6 Q. What senior staff?<br/>7 A. What is senior staff?<br/>8 Q. Correct.<br/>9 A. The individuals that report to<br/>10 the general manager.<br/>11 Q. Give me the job titles of<br/>12 these individuals.<br/>13 A. Controller, purchasing<br/>14 manager, HR manager, operations manager, IT<br/>15 manager, and administrative assistant.<br/>16 Q. What administrative assistant?<br/>17 A. The general manager's<br/>18 administrative assistant.<br/>19 Q. Who's the general manager?<br/>20 A. Tim Esslinger.<br/>21 Also present would be the two<br/>22 plant managers and the complex maintenance<br/>23 manager.</p> |
| 39   | 41   |
| <p>1 connected, dots connected by a line that<br/>2 shows the actual overtime for each week.<br/>3 Q. Does it show in hours or<br/>4 dollars?<br/>5 A. Percent.<br/>6 Q. Percent of what?<br/>7 A. Percent overtime hours to<br/>8 total hours -- to regular hours, excuse me.<br/>9 Q. Percent of overtime hours to<br/>10 regular hours?<br/>11 A. Yes.<br/>12 Q. What do you mean by regular<br/>13 hours?<br/>14 A. Regular hours would be those<br/>15 not subject -- straight time hours.<br/>16 Q. Forty hours?<br/>17 A. Yes. If that's what it is.<br/>18 Q. Does it vary from job to job<br/>19 what the regular hours would be?<br/>20 A. Yes.<br/>21 Q. How is that reflected in your<br/>22 graph?<br/>23 A. It's not.</p>  | <p>1 Q. The what?<br/>2 A. The complex maintenance<br/>3 manager.<br/>4 Q. All right. And you said these<br/>5 graphs are given and used by the management<br/>6 team?<br/>7 A. It's a report that I do, yes,<br/>8 weekly.<br/>9 Q. Do you have a meeting to<br/>10 discuss them weekly?<br/>11 A. No.<br/>12 Q. Do you just send it out to<br/>13 them?<br/>14 A. The normal weekly staff<br/>15 meeting.<br/>16 Q. Right. So they're discussed<br/>17 in the normal weekly staff meeting?<br/>18 A. Yes.<br/>19 Q. Why do you want to know what<br/>20 the overtime trend is?<br/>21 A. It's a -- It's a reporting<br/>22 factor that most businesses look at on some<br/>23 routine basis.</p>   |

42

1 Q. Why?  
2 A. Why?  
3 Q. Yes.  
4 A. We want to know.  
5 Q. Why do you want to know?  
6 A. It's a measurement of some of  
7 our costs.  
8 Q. And why are you measuring  
9 these costs?  
10 A. Why do we measure our costs?  
11 Q. Of overtime, yes.  
12 A. It's just one of the factors  
13 we look at -- we look at.  
14 Q. What other factors do you look  
15 at?  
16 A. Anything to do with  
17 performance or costs that happens to be  
18 normal in our business.  
19 Q. What do you mean by normal?  
20 A. It's not different from any  
21 other business, just costs and --  
22 performance factors and costs. Just like  
23 any business.

43

1 Q. What do you mean by a factor  
2 that's normal in your business? What  
3 factors are normal in your business?  
4 A. Income, expense, and profit.  
5 Q. Are you looking at the  
6 overtime as to how it affects your profit?  
7 A. We're looking at it as a -- as  
8 one of the measurements, one of the factors  
9 that affects our business.  
10 Q. What other factors affect the  
11 business?  
12 A. Anything to do with cost or  
13 performance.  
14 Q. Have you brought any of these  
15 graphs that reflect -- Let me back up.  
16 Are there specific e-mails for  
17 the overtime -- or in the e-mail you get, or  
18 the report, are the reports broken down by  
19 departments within the fresh plant, showing  
20 the overtime by department?  
21 A. Yes.  
22 Q. Is it detailed by employee?  
23 A. No.

44

1 Q. Does it just show the hours  
2 per department?  
3 A. No.  
4 Q. What does it show?  
5 A. The hours and the dollars  
6 related to those hours.  
7 Q. Have you produced any of those  
8 to the attorneys in this case, these reports  
9 showing the hours?  
10 A. No.  
11 Q. Have you been asked by anyone  
12 to go through and produce any records in  
13 this case?  
14 MR. ROSENTHAL: You can answer  
15 the question as to whether or not you've  
16 been asked to produce records, yes or no.  
17 A. Yes.  
18 Q. Have you produced any records  
19 in this case?  
20 A. Yes.  
21 Q. What records have you  
22 produced?  
23 A. I can't answer that with a yes

45

1 or no.  
2 Q. It's not a yes or no question.  
3 What records have you produced?  
4 A. Earnings records.  
5 Q. When you say earnings records,  
6 what kind of earnings records, earnings of  
7 whom?  
8 A. For the individuals that have  
9 been provided to me to provide the  
10 information for.  
11 Q. Is this like copies of their  
12 pay stubs, or their total yearly earnings  
13 like W-2s, or what kind of documents?  
14 A. W-2s and earning statements.  
15 Q. Do these earning statements  
16 show their actual clock-in and clock-out  
17 times?  
18 A. No.  
19 Q. What records show employees  
20 actual clock-in and clock-out times?  
21 A. Exhibit 23.  
22 Q. The Kronos reports?  
23 A. Yes.

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| <p style="text-align: right;">46</p> <p>1 Q. Have you produced any Kronos<br/>2 reports, other than Exhibit 23?<br/>3 A. No.<br/>4 Q. Have you been asked to gather<br/>5 up and put together the Kronos reports so<br/>6 they could be produced?<br/>7 A. No.<br/>8 Q. Where are the Kronos reports?<br/>9 A. In the storage buildings at 57<br/>10 Melvin Clark Road.<br/>11 Q. When did you first become<br/>12 aware that we wanted to see the Kronos<br/>13 reports in this case?<br/>14 A. I'm not sure.<br/>15 Q. Okay. Has it been a while or<br/>16 just recently?<br/>17 A. Yes, it's been a while.<br/>18 Q. Now, this Exhibit 23, you said<br/>19 this is the weekly reports. Are there daily<br/>20 reports?<br/>21 A. Yes.<br/>22 Q. Okay. Tell me -- Describe<br/>23 these daily reports.</p>                           | <p style="text-align: right;">48</p> <p>1 corrections?<br/>2 A. On the document.<br/>3 Q. Does anybody make the<br/>4 corrections in the computer system?<br/>5 A. Yes.<br/>6 Q. Who does that?<br/>7 A. My payroll department.<br/>8 Q. Can supervisors make<br/>9 corrections in the computer system?<br/>10 A. Yes.<br/>11 Q. Do they normally do that?<br/>12 A. Yes.<br/>13 Q. Who's ultimately responsible<br/>14 for making the corrections in the computer<br/>15 system?<br/>16 A. My payroll department.<br/>17 Q. Can the supervisors change the<br/>18 start time for the department in the<br/>19 computer system?<br/>20 A. No.<br/>21 Q. Who can do that?<br/>22 A. My payroll department.<br/>23 Q. What time of day do the</p>   |
| <p style="text-align: right;">47</p> <p>1 A. They're just like the<br/>2 weeklies.<br/>3 Q. They look just like this?<br/>4 A. Except it would have one day<br/>5 on there, or two days or three days.<br/>6 Q. Let's start with the daily<br/>7 report. What's the process?<br/>8 A. The same as the weekly.<br/>9 They're sent to the supervisors for their<br/>10 review and approval.<br/>11 Q. Who sends it?<br/>12 A. My department, my payroll<br/>13 department.<br/>14 Q. What does the supervisor do<br/>15 when they get the report?<br/>16 A. They review it, make notes,<br/>17 sign off, send it back.<br/>18 Q. And what does your department<br/>19 do when they get it back?<br/>20 A. Go through it and make the<br/>21 corrections that the supervisors have<br/>22 indicated.<br/>23 Q. Where do they make the</p> | <p style="text-align: right;">49</p> <p>1 supervisors get these daily times?<br/>2 A. Different times.<br/>3 Q. When you say different times,<br/>4 how does it vary?<br/>5 A. It's based on the work hours<br/>6 and the shift times and when they're<br/>7 finished.<br/>8 Q. Is there a certain amount of<br/>9 time when those shifts start that you try to<br/>10 get the daily reports to them?<br/>11 A. Yes.<br/>12 Q. Tell me what that is.<br/>13 A. I don't know.<br/>14 Q. Who would know that?<br/>15 A. My payroll department.<br/>16 Q. When you say your payroll<br/>17 department, is there a certain person or job<br/>18 title?<br/>19 A. No. I have three people in<br/>20 the payroll department, so it could be any<br/>21 of the three.<br/>22 Q. Who are the three people?<br/>23 A. Shauna Bouterse, Wakeela</p> |

| 50  | 52   |
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| <p>1 Glanton, Denise Webster.<br/>2 Q. Spell Wakeela.<br/>3 A. W-A-K-E-E-L-A.<br/>4 Q. What was her last name,<br/>5 Blanton?<br/>6 A. Glanton.<br/>7 Q. G-L --<br/>8 A. -- A-N-T-O-N.<br/>9 Q. And the third person?<br/>10 A. Denise Webster.<br/>11 Q. Do they -- What are their<br/>12 titles? What's Shauna's title?<br/>13 A. Payroll manager.<br/>14 Q. What's Wakeela's title?<br/>15 A. Payroll clerk.<br/>16 Q. And what's Denise's title?<br/>17 A. Payroll clerk.<br/>18 Q. How many employees report<br/>19 directly to you?<br/>20 A. Fifteen.<br/>21 That's wrong. Four.<br/>22 Q. Four employees report directly<br/>23 to you?</p>         | <p>1 THE WITNESS: Champion.<br/>2 MR. KISER: First name?<br/>3 THE WITNESS: Jeff.<br/>4 Q. When you say live accounting<br/>5 manager what does that mean?<br/>6 A. That's the portion of our<br/>7 business that deals with the live chickens.<br/>8 Q. Going back to the daily<br/>9 reports that the supervisors get, I asked<br/>10 you if there was a set time that you tried<br/>11 to get them -- like a certain amount of time<br/>12 after the shift stopped. Do you know what<br/>13 that is?<br/>14 A. No.<br/>15 Q. Is that written -- Is that a<br/>16 written policy?<br/>17 A. No.<br/>18 Q. Do you know who established<br/>19 the policy?<br/>20 A. It's not a policy.<br/>21 Q. Who established the practice?<br/>22 A. It's a procedure. Established<br/>23 by my payroll department.</p>   |
| 51  | 53   |
| <p>1 A. Yes.<br/>2 Q. What -- Does Shauna report<br/>3 directly to you?<br/>4 A. Yes.<br/>5 Q. Does Wakeela report directly<br/>6 to you?<br/>7 A. Shauna.<br/>8 Q. Other than Shauna, what<br/>9 employees report directly to you?<br/>10 A. Their names?<br/>11 Q. Yes. And title.<br/>12 A. John Fulford, live accounting<br/>13 manager.<br/>14 Q. What accounting manager?<br/>15 A. Live<br/>16 MR. ROSENTHAL: Can you spell<br/>17 his last name.<br/>18 A. F-U-L-F-O-R-D.<br/>19 Dawn Cortner, fresh plant<br/>20 accounting manager; Jeff Champion, further<br/>21 plant accounting manager.<br/>22 MR. KISER: What was that last<br/>23 name?</p> | <p>1 Q. Okay. Was that -- You went to<br/>2 work for Equity in '04?<br/>3 A. Uh-huh.<br/>4 Q. Was that procedure in effect<br/>5 when you came in to work at Equity?<br/>6 A. There was a procedure in<br/>7 place, yes.<br/>8 Q. Have you changed the procedure<br/>9 since you've been there?<br/>10 A. I haven't, no.<br/>11 Q. Okay. Has your payroll<br/>12 department changed the procedure?<br/>13 A. Yes.<br/>14 Q. Okay. How did it change?<br/>15 A. It changed based on shift --<br/>16 the start -- the stop times and when they<br/>17 can be made available to the supervisors.<br/>18 Q. How long does it take your<br/>19 payroll department to get these reports<br/>20 printed and done to make available for<br/>21 payroll?<br/>22 A. I don't know.<br/>23 Q. Is it -- Do they get the</p> |

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| <p>54</p> <p>1 report from the day before, or do they get<br/>2 them during the shift?<br/>3 A. At the end of the shift.<br/>4 Q. All right. Are the employees<br/>5 still on the line when they get their<br/>6 reports?<br/>7 A. No.<br/>8 Q. Do the supervisors stay longer<br/>9 than the employees on the line?<br/>10 A. I don't know.<br/>11 Q. Do they have to stay and<br/>12 complete these reports before they can<br/>13 leave?<br/>14 A. No.<br/>15 Q. Or how does that process work?<br/>16 A. They have to have them<br/>17 completed and back to my department by a<br/>18 certain time so that we can enter that day's<br/>19 corrections and at the end of the week<br/>20 compile the payroll for the total week.<br/>21 Q. And what is that certain time<br/>22 that they have to have them completed and<br/>23 back to your department?</p> | <p>56</p> <p>1 A. My payroll department.<br/>2 Q. What deadlines are you talking<br/>3 about that have been set?<br/>4 A. In order for us to enter the<br/>5 corrections, we have to have them by a<br/>6 certain time.<br/>7 Q. And do you know what that<br/>8 certain time is?<br/>9 A. No.<br/>10 Q. Who would know?<br/>11 A. My payroll department.<br/>12 Q. What hours does your payroll<br/>13 department work?<br/>14 A. Eight to five.<br/>15 Q. Would these deadlines be<br/>16 within eight to five?<br/>17 A. Yes.<br/>18 Q. If you were on first shift<br/>19 debone, line 5, do you know what the<br/>20 deadline would be to turn back in your<br/>21 corrections to the payroll report?<br/>22 A. No.<br/>23 Q. Who would know that?</p> |
| <p>55</p> <p>1 A. I don't know.<br/>2 Q. If you don't know the actual<br/>3 time, what is the procedure? Is it the same<br/>4 day? Is it the next day, or is it three<br/>5 weeks, or when is it?<br/>6 A. It's monitored by my payroll<br/>7 department.<br/>8 Q. Do you know whether it's the<br/>9 same day?<br/>10 A. It's every day.<br/>11 Q. Are they done on the same day<br/>12 that the time's entered? Are they given the<br/>13 report at the end of the shift, and they<br/>14 turn them back in the same day -- the next<br/>15 day?<br/>16 A. It could be either.<br/>17 Q. How do you determine which one<br/>18 it is?<br/>19 A. My department keeps up with<br/>20 when they're turned in and if they meet the<br/>21 deadlines that have been set. That's part<br/>22 of their job.<br/>23 Q. Part of whose job?</p>                           | <p>57</p> <p>1 A. My payroll department.<br/>2 Q. Do you know what time second<br/>3 shift runs for production?<br/>4 MR. ROSENTHAL: Which<br/>5 department?<br/>6 MS. MCGOWAN: Any<br/>7 department --<br/>8 Q. From the whole -- Do you know<br/>9 what time any department on second shift<br/>10 runs?<br/>11 A. I know that second shift<br/>12 deboning starts at 4:30 as evidenced by this<br/>13 document.<br/>14 Q. 4:30 p.m. Do you know what<br/>15 time it gets off?<br/>16 A. No.<br/>17 Q. Do you know whether any of the<br/>18 second shift departments start after your<br/>19 payroll department leaves work for the day?<br/>20 A. No.<br/>21 Q. You don't know?<br/>22 A. (Witness shakes head in the<br/>23 negative.)</p>            |

| 58  | 60   |
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| <p>1 Q. You know they don't or you<br/>2 don't know?<br/>3 A. Repeat the question.<br/>4 Q. Do you know if any department<br/>5 starts after five o'clock, after your<br/>6 payroll department leaves at five?<br/>7 A. No.<br/>8 Q. You don't know?<br/>9 A. (Witness shakes head in the<br/>10 negative.)<br/>11 Q. You have to be verbal.<br/>12 A. No.<br/>13 Q. How -- Do you know when the<br/>14 debone department that starts at 4:30 gets<br/>15 their report from your payroll department,<br/>16 their daily report to add in?<br/>17 A. At the end of the shift.<br/>18 Q. Is there somebody in your<br/>19 department to give it to them?<br/>20 A. It's set up in the computer to<br/>21 send an e-mail at a certain time when the<br/>22 shift is over.<br/>23 Q. So your payroll department</p> | <p>1 be returned?<br/>2 A. Yes.<br/>3 Q. Where is this procedure<br/>4 located?<br/>5 A. It's in an e-mail.<br/>6 Q. From whom?<br/>7 A. Payroll manager.<br/>8 Q. Shauna?<br/>9 A. Yes.<br/>10 Q. And do you know what it says?<br/>11 A. No. Not without having it in<br/>12 front of me.<br/>13 Q. Do you know the general<br/>14 process?<br/>15 A. Yes. The general process is<br/>16 to tell them what time the time sheets are<br/>17 due back.<br/>18 Q. Do you have a general<br/>19 understanding of what time of day that is?<br/>20 A. I have a general understanding<br/>21 that we have a procedure that says what time<br/>22 they must be turned back in.<br/>23 Q. Is that like they have to be</p>   |
| 59  | 61   |
| <p>1 doesn't actually print these out and hand<br/>2 them in -- hand them to the second shift<br/>3 supervisors?<br/>4 A. No.<br/>5 Q. Do they print them out and<br/>6 hand them to the first shift supervisors?<br/>7 A. No.<br/>8 Q. So all of the supervisors go<br/>9 into the computer and print these<br/>10 themselves?<br/>11 A. Yes.<br/>12 Q. Do they receive an e-mail with<br/>13 this information?<br/>14 A. Yes.<br/>15 Q. Does that e-mail tell them<br/>16 when they have to get back?<br/>17 A. No.<br/>18 Q. How do they know when they're<br/>19 due back?<br/>20 A. There is a procedure set down<br/>21 in writing that has been distributed to the<br/>22 supervisors.<br/>23 Q. That tells them when they must</p>  | <p>1 in by noon, or they have to be in thirty<br/>2 minutes before your shift starts, or do you<br/>3 know what the general understanding?<br/>4 A. No, I don't know specifically.<br/>5 I know the general understanding.<br/>6 Q. All right. Tell me what you<br/>7 know the general understanding to mean.<br/>8 A. That there is a time -- There<br/>9 is a deadline for them to be turned back in.<br/>10 Q. What happens if it's not<br/>11 turned back in by the deadline?<br/>12 A. We -- They, my payroll<br/>13 department, makes contact with the<br/>14 supervisors.<br/>15 Q. How do they make contact?<br/>16 A. E-mail, radio, or telephone.<br/>17 Q. When you say they get e-mails,<br/>18 are there computer terminals set up out in<br/>19 the --<br/>20 A. Yes.<br/>21 Q. -- production line?<br/>22 A. No.<br/>23 Q. Where are the computer</p> |



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| <p style="text-align: right;">62</p> <p>1 terminals?</p> <p>2 A. Offices at the production</p> <p>3 plant.</p> <p>4 Q. Does each supervisor have an</p> <p>5 office?</p> <p>6 A. No.</p> <p>7 Q. How do the supervisors --</p> <p>8 where -- What computers do the supervisors</p> <p>9 use to get these e-mails?</p> <p>10 A. I don't know.</p> <p>11 Q. If a supervisor doesn't submit</p> <p>12 an edited report, is it assumed correct and</p> <p>13 accepted?</p> <p>14 A. No.</p> <p>15 Q. Do the supervisors e-mail back</p> <p>16 the changes or do they actually,</p> <p>17 physically --</p> <p>18 A. Physically.</p> <p>19 Q. -- send them in writing and</p> <p>20 turn them in?</p> <p>21 A. Yes.</p> <p>22 Q. How are they returned?</p> <p>23 A. They're physically handed back</p> | <p style="text-align: right;">64</p> <p>1 Q. Where's the accounting</p> <p>2 department located? Which building?</p> <p>3 A. The -- I don't know how to</p> <p>4 describe it.</p> <p>5 Q. Why don't you look at a map.</p> <p>6 Let me show you what we've marked previously</p> <p>7 as Exhibit 22.</p> <p>8 A. Okay. Here (indicating).</p> <p>9 Q. And you're looking at the</p> <p>10 further processing building?</p> <p>11 A. This is the further processing</p> <p>12 building (indicating). This is the</p> <p>13 accounting office right here (indicating).</p> <p>14 Q. Who all is located in the</p> <p>15 accounting office besides the payroll</p> <p>16 department?</p> <p>17 A. The other three managers and</p> <p>18 their direct reports.</p> <p>19 Q. The other three managers that</p> <p>20 report to you?</p> <p>21 A. Yes.</p> <p>22 Q. And you're also in that area?</p> <p>23 A. Yes.</p>                         |
| <p style="text-align: right;">63</p> <p>1 in.</p> <p>2 Q. Where do they hand them back</p> <p>3 in?</p> <p>4 A. In the accounting office</p> <p>5 payroll department.</p> <p>6 Q. Is there one person that's</p> <p>7 responsible for receiving these?</p> <p>8 A. Three people.</p> <p>9 Q. They can hand them to any of</p> <p>10 them?</p> <p>11 A. Yes.</p> <p>12 Q. Is there like an inbox they go</p> <p>13 in?</p> <p>14 A. Yes. We also have an inbox.</p> <p>15 Q. And where's that located?</p> <p>16 A. In the administrative break</p> <p>17 room.</p> <p>18 Q. Where's administrative break</p> <p>19 room?</p> <p>20 A. Physically?</p> <p>21 Q. Yes.</p> <p>22 A. In the same building with the</p> <p>23 accounting department.</p>  | <p style="text-align: right;">65</p> <p>1 Q. Okay. And where is the</p> <p>2 administrative break room?</p> <p>3 A. Right there (indicating).</p> <p>4 Q. Now, how long does it take to</p> <p>5 implement the changes to the Kronos reports?</p> <p>6 A. The corrections?</p> <p>7 Q. Yes.</p> <p>8 A. It's done the next day. I</p> <p>9 don't know how long it takes.</p> <p>10 Q. Who actually performs the</p> <p>11 corrections?</p> <p>12 A. Any of the three employees in</p> <p>13 the payroll department.</p> <p>14 Q. If master card on Exhibit 23</p> <p>15 shows that line 5 debone shift ended at 3:04</p> <p>16 a.m., would that supervisor have to turn in</p> <p>17 his corrections to this report before 3:04</p> <p>18 a.m. or as soon as possible after 3:04 a.m.?</p> <p>19 A. After.</p> <p>20 Q. After?</p> <p>21 A. (Witness nods head in the</p> <p>22 affirmative.)</p> <p>23 Q. Do you know how long after?</p> |



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| <p>66</p> <p>1 A. No.</p> <p>2 Q. Would that be in that e-mail?</p> <p>3 A. Yes.</p> <p>4 MS. MCGOWAN: Howard, I</p> <p>5 haven't seen that e-mail.</p> <p>6 MR. ROSENTHAL: You haven't</p> <p>7 requested it.</p> <p>8 MS. MCGOWAN: We've asked for</p> <p>9 all documents on how time is edited and</p> <p>10 done.</p> <p>11 MR. ROSENTHAL: I suggest you</p> <p>12 go back and read the document that we --</p> <p>13 that you requested, used at your request</p> <p>14 before you make that statement.</p> <p>15 Ms. McGowan, it hasn't been</p> <p>16 requested. If you make a request now, we'll</p> <p>17 consider it.</p> <p>18 Q. Is it your understanding that</p> <p>19 this supervisor has to make corrections</p> <p>20 before, if the shift ends at 3:04, they</p> <p>21 leave the plant that day?</p> <p>22 A. I don't know.</p> <p>23 Q. Can you turn it in the next</p> | <p>68</p> <p>1 A. Yes.</p> <p>2 Q. And what is the cutoff date on</p> <p>3 the week? The payroll period is from what</p> <p>4 day to what day?</p> <p>5 A. It's from Sunday through</p> <p>6 Saturday.</p> <p>7 Q. So the payroll that's</p> <p>8 processed on Tuesday would be for the time</p> <p>9 that ended the previous Saturday?</p> <p>10 A. Yes.</p> <p>11 Q. How many days a week does the</p> <p>12 plant operate, the fresh plant?</p> <p>13 A. It's normally five.</p> <p>14 Q. Is that Monday through Friday?</p> <p>15 A. Yes.</p> <p>16 Q. Look at Exhibit 23. And on</p> <p>17 the first page for Jacqueline Cooper, under</p> <p>18 6/2/08, do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Does that reflect the first</p> <p>21 number of the time she punched in, or is</p> <p>22 that the master time?</p> <p>23 A. The time she clocked in.</p> |
| <p>67</p> <p>1 day when he returns at 4 -- when the second</p> <p>2 shift begins at 4:30?</p> <p>3 A. I don't -- I don't know the</p> <p>4 times in the e-mail without looking at it.</p> <p>5 Q. No. I'm just saying can he</p> <p>6 wait and turn it in the next day when he</p> <p>7 returns to work at the beginning of his</p> <p>8 shift at 4:30 in the afternoon?</p> <p>9 A. Yes.</p> <p>10 Q. Why do you have the deadlines</p> <p>11 established?</p> <p>12 A. So that we can process the</p> <p>13 payroll in a timely manner.</p> <p>14 Q. How often is payroll</p> <p>15 processed?</p> <p>16 A. Once a week.</p> <p>17 Q. What day does payroll --</p> <p>18 A. Tuesday.</p> <p>19 Q. Is it the day it's paid or the</p> <p>20 day it's processed?</p> <p>21 A. Processed.</p> <p>22 Q. And is that for the week</p> <p>23 before?</p>                                       | <p>69</p> <p>1 Q. Is that her time she swiped</p> <p>2 in?</p> <p>3 A. Yes.</p> <p>4 Q. What does VE stand for?</p> <p>5 A. I don't know.</p> <p>6 Q. You don't know?</p> <p>7 A. No.</p> <p>8 Q. Above -- Under the master</p> <p>9 card, what does MP stand for?</p> <p>10 A. Master -- I don't know. I</p> <p>11 don't know.</p> <p>12 Q. Who would know?</p> <p>13 A. My payroll department would.</p> <p>14 Q. Are there any policies,</p> <p>15 written documents that tell you what these</p> <p>16 things stand for?</p> <p>17 A. I don't know.</p> <p>18 Q. Have you ever reviewed any</p> <p>19 written documents that describe the Kronos</p> <p>20 report?</p> <p>21 A. No.</p> <p>22 Q. Have you ever seen any written</p> <p>23 documents that describe the Kronos report?</p>   |

| 70  | 72  |
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| <p>1 A. Yes.</p> <p>2 Q. Okay. What have you seen?</p> <p>3 A. A manual.</p> <p>4 Q. What is this manual called?</p> <p>5 A. I don't know the name.</p> <p>6 Q. What's in this manual?</p> <p>7 A. Kronos information.</p> <p>8 Q. Do you know who prepared it?</p> <p>9 A. No.</p> <p>10 Q. Do you have a copy of it in</p> <p>11 your office?</p> <p>12 A. No.</p> <p>13 Q. Where's this manual</p> <p>14 maintained?</p> <p>15 A. In my payroll department.</p> <p>16 Q. Look at -- Let's go back to</p> <p>17 the master card up at the top, on 6/2. 3:04</p> <p>18 a.m., is that the time that the master card</p> <p>19 was swiped out by the department supervisor?</p> <p>20 A. Yes.</p> <p>21 Q. And you look over at total</p> <p>22 amount, and that's 9:34?</p> <p>23 A. Yes.</p>   | <p>1 to the last column on the right, do those</p> <p>2 reflect the times from the master card swipe</p> <p>3 and not the personal in and out swipe?</p> <p>4 A. Yes.</p> <p>5 Q. Do you -- can the payroll</p> <p>6 department use the personal swipe in and out</p> <p>7 time for any reason at all?</p> <p>8 MR. ROSENTHAL: For Jacqueline</p> <p>9 Cooper?</p> <p>10 A. No.</p> <p>11 Q. For any employee?</p> <p>12 A. For Diane Holmes.</p> <p>13 Q. What page are you on?</p> <p>14 A. Page four.</p> <p>15 Q. All right. And why are you</p> <p>16 using Diane Holmes?</p> <p>17 A. The supervisor didn't know to</p> <p>18 pay clock-out.</p> <p>19 Q. Okay. Do you ever use</p> <p>20 clock-in times for anything?</p> <p>21 A. Yes.</p> <p>22 Q. When?</p> <p>23 A. I don't have an example in</p>   |
| 71  | 73  |
| <p>1 Q. Does that represent nine hours</p> <p>2 and thirty-four minutes?</p> <p>3 A. Yes.</p> <p>4 Q. And at the bottom, it shows on</p> <p>5 6/6, twenty-eight for the master card,</p> <p>6 forty-six hours and fifty-two minutes worked</p> <p>7 that week?</p> <p>8 A. Yes.</p> <p>9 Q. Now, does the computer</p> <p>10 automatically deduct the one hour for the</p> <p>11 two thirty-minute breaks?</p> <p>12 A. Yes.</p> <p>13 Q. So the supervisor is not</p> <p>14 swiping in and out for the thirty-minute</p> <p>15 breaks?</p> <p>16 A. That's correct.</p> <p>17 Q. Can a supervisor go in to the</p> <p>18 system and change the swipe out time?</p> <p>19 A. No.</p> <p>20 Q. Who can change that?</p> <p>21 A. Payroll department.</p> <p>22 Q. Go down to the -- Ms. Cook.</p> <p>23 Under the total amounts worked on the next</p> | <p>1 that for that. It would be the same thing.</p> <p>2 Q. Do you know of an example?</p> <p>3 A. No.</p> <p>4 Q. If an employee's late, do you</p> <p>5 use clock-in or clock-out -- do you use the</p> <p>6 clock-in time or master time?</p> <p>7 A. Clock-in.</p> <p>8 Q. So that would be an example of</p> <p>9 when you would use the clock-in time for the</p> <p>10 employee?</p> <p>11 A. Yes.</p> <p>12 Q. Is the computer set up to</p> <p>13 recognize that, the computer Kronos system,</p> <p>14 if an employee's late, or does the</p> <p>15 supervisor have to physically denote -- do a</p> <p>16 notation?</p> <p>17 A. If they swipe their card, the</p> <p>18 computer will see it.</p> <p>19 Q. And pay them on the clock-in</p> <p>20 time if that's late?</p> <p>21 A. Yes.</p> <p>22 Q. Is there a code flagging that?</p> <p>23 A. I don't know.</p> |

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| <p>74</p> <p>1 Q. Can the Kronos system be set<br/>2 to pay employees by their clock-in time?<br/>3 A. These employees?<br/>4 Q. Any employee.<br/>5 A. Yes.<br/>6 Q. Okay. How would that be<br/>7 achieved?<br/>8 A. By the pay rule.<br/>9 Q. Payroll can go in and set --<br/>10 A. Pay rule.<br/>11 Q. Pay rule? What's pay rule?<br/>12 A. Pay rule means line time would<br/>13 be a pay rule; clock-in and clock-out would<br/>14 be pay rule; schedule would be pay rule.<br/>15 Q. So there are some pay rules<br/>16 where employees are paid on the Kronos<br/>17 system from clock-in to clock-out?<br/>18 A. If they are paid under that<br/>19 pay rule.<br/>20 Q. Is it a hard process to change<br/>21 in the computer to pay employees on the pay<br/>22 rule from clock-in to clock-out?<br/>23 Or is it just a code you have</p> | <p>76</p> <p>1 breaks, line time, do you know what that<br/>2 means?<br/>3 A. That's just like Exhibit 23.<br/>4 Q. Okay. So they're paid based<br/>5 on a set time and the master card time?<br/>6 A. Yes.<br/>7 Q. The next one is two breaks,<br/>8 minute to minute, what does that mean?<br/>9 A. Clock-in to clock-out.<br/>10 Q. Does HR determine what pay<br/>11 rules apply?<br/>12 A. Yes.<br/>13 Q. Who in HR does that?<br/>14 A. I don't know.<br/>15 Q. Do you have any involvement?<br/>16 A. No.<br/>17 Q. Look at Exhibit -- back to 23.<br/>18 Are all employees in debone line 5 paid the<br/>19 same amount -- the forty-six point fifty-two<br/>20 hours for this work week unless there was<br/>21 some notation by the supervisor or they came<br/>22 in late?<br/>23 A. Yes.</p> |
| <p>75</p> <p>1 to put in for that employee?<br/>2 A. It's a code you have to put<br/>3 in.<br/>4 Q. Who puts that code in?<br/>5 A. Human resources.<br/>6 Q. And the computer automatically<br/>7 picks up that code and pays from clock-in to<br/>8 clock-out?<br/>9 A. That's right.<br/>10 Q. Look at Exhibit Number 13. Do<br/>11 you know what these are?<br/>12 A. Work rules.<br/>13 Q. And what are --<br/>14 A. It's the same thing, it's pay<br/>15 rule. It's just a different name for them.<br/>16 Q. So you call them pay rules?<br/>17 A. Yeah.<br/>18 Q. So this would be the computer<br/>19 where it sets in how the people are paid?<br/>20 A. Yes.<br/>21 Q. Explain number -- The first<br/>22 page, the work rule, do you know what kind<br/>23 of employee this is at the top? It says two</p>                               | <p>77</p> <p>1 Q. How do you reflect the three<br/>2 minutes that are being paid per day under<br/>3 the new contract?<br/>4 A. It's reflected on their check<br/>5 stub.<br/>6 Q. How is it reflected in these?<br/>7 A. No.<br/>8 Q. It's not on the Kronos?<br/>9 A. (Witness shakes head in the<br/>10 negative.)<br/>11 Q. How is that added?<br/>12 A. To the check stub.<br/>13 Q. So after it's added to this<br/>14 forty-six point -- forty-six minutes and<br/>15 fifty-two --<br/>16 A. (Witness nods head in the<br/>17 affirmative.)<br/>18 Q. Forty-six hours and fifty-two<br/>19 minutes, I'm sorry.<br/>20 A. (Witness nods head in the<br/>21 affirmative.)<br/>22 Q. Yes?<br/>23 A. Yes.</p>  |

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| <p style="text-align: right;">78</p> <p>1 Q. So after that, payroll<br/>2 department would had an additional fifteen<br/>3 minutes?<br/>4 A. The computer does it.<br/>5 Q. Computer would add an<br/>6 additional fifteen minutes, if it's three<br/>7 minutes a day for five days?<br/>8 A. Yes. That's correct.<br/>9 Q. Did you have to do anything to<br/>10 set up this three minutes in the computer?<br/>11 A. Me personally?<br/>12 Q. Yes.<br/>13 A. No.<br/>14 Q. Do you know who did that?<br/>15 A. Corporate.<br/>16 Q. What do you mean by corporate?<br/>17 A. The corporate office of our<br/>18 parent company.<br/>19 Q. Where's that?<br/>20 A. West Conshohocken,<br/>21 Pennsylvania.<br/>22 Q. And they went in and set<br/>23 computers at that end?</p>     | <p style="text-align: right;">80</p> <p>1 the new contract, what do you mean by that?<br/>2 A. Once something like that would<br/>3 happen, that would be a communication<br/>4 between the general manager and the<br/>5 controller.<br/>6 Q. Do you use that three minutes<br/>7 in your overtime trend?<br/>8 A. No.<br/>9 Q. Are production workers<br/>10 scheduled for forty hours a week, production<br/>11 line workers?<br/>12 A. I'm not involved in that<br/>13 process.<br/>14 Q. Are you aware of any that are<br/>15 scheduled for less than forty hours per<br/>16 week?<br/>17 A. I don't know.<br/>18 Q. Do you see that in your<br/>19 reports that you're getting?<br/>20 A. No.<br/>21 Q. Have you had any decision --<br/>22 or involvement in any decision on whether or<br/>23 not to pay employees for the time they spent</p> |
| <p style="text-align: right;">79</p> <p>1 A. Yes.<br/>2 Q. Is there an IT department that<br/>3 did that?<br/>4 A. Yes.<br/>5 Q. Do you know if any other<br/>6 plants pay an additional three minutes or<br/>7 some kind of minutes for donning and<br/>8 doffing?<br/>9 A. No, I don't.<br/>10 Q. Did you have any involvement<br/>11 in the decision to pay additional time for<br/>12 donning and doffing?<br/>13 A. No.<br/>14 Q. Did you have any involvement<br/>15 in the union contract negotiations?<br/>16 A. No.<br/>17 Q. How did you learn that an<br/>18 additional three minutes was being paid?<br/>19 A. By the notification of the<br/>20 contract -- notification of the new<br/>21 contract.<br/>22 Q. Who notified you?<br/>23 You say the notification of</p> | <p style="text-align: right;">81</p> <p>1 donning and doffing?<br/>2 A. No.<br/>3 Q. When I say donning and<br/>4 doffing, do you understand what I'm talking<br/>5 about?<br/>6 A. Yes.<br/>7 Q. Have you been asked to prepare<br/>8 any cost analysis reports?<br/>9 A. No.<br/>10 Q. On paying for donning and<br/>11 doffing?<br/>12 A. No.<br/>13 Q. The Kronos information that's<br/>14 in these reports that shows the punch in and<br/>15 punch out times for each employee, is that<br/>16 maintained electronically also?<br/>17 A. Yes.<br/>18 Q. In what version? Do you back<br/>19 it up every day or how do you maintain it?<br/>20 A. We have -- Our Kronos version<br/>21 currently is on the Internet, the web.<br/>22 Q. What do you mean by that?<br/>23 A. It's web based. Prior to</p>   |

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1 this -- And this happened in September of  
2 '07. Prior to that, we maintained it on  
3 local servers at our facility.  
4 Q. And then when you maintained  
5 it on the local servers, did you back it  
6 up --  
7 A. Yes.  
8 Q. -- this electronic data?  
9 A. Yes.  
10 Q. And what form of backup did  
11 you use for the electronic data?  
12 A. I'm not qualified to speak to  
13 that, because that's an IT department.  
14 Q. Somebody in IT was responsible  
15 for backing this information up?  
16 A. Exactly. Yes.  
17 Q. Is this electronic information  
18 also subject to the seven-year retention  
19 policy, document retention policy?  
20 A. I'm not sure.  
21 Q. Do you know if the Kronos  
22 information prior to September of '07 is  
23 still available electronically?

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1 A. Yes.  
2 Q. You do know or yes, it is?  
3 A. Yes, it is.  
4 Q. And who maintains this record?  
5 A. It's maintained on the servers  
6 at our facility.  
7 Q. Now, since September of '07,  
8 this information is maintained on the web.  
9 Is it still accessible by your --  
10 A. Yes.  
11 Q. -- department?  
12 A. Yes.  
13 Q. If you wanted to go back and  
14 research something on a clock-in and  
15 clock-out time for an employee in October of  
16 '07, could you go online and get it now?  
17 A. Yes.  
18 Q. Do you still, after September  
19 of '07, do the daily reports and keep them  
20 in a folder by month?  
21 A. Yes.  
22 Q. I mean a weekly report and  
23 folder by month?

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1 A. Yes.  
2 Q. Has anyone ever asked you to  
3 review the weekly reports and determine how  
4 much time employees have at the end of the  
5 shift that's different -- the clock-out time  
6 different from the master card?  
7 A. No.  
8 Q. Has anyone ever asked you to  
9 do an analysis of how much it would cost the  
10 company to pay for donning and doffing?  
11 A. No.  
12 Q. Were you asked to do an  
13 analysis on cost for the company for the  
14 three minutes before it was agreed to do  
15 from the contract negotiations?  
16 A. No.  
17 Q. Were you aware that the  
18 company was considering agreeing to pay for  
19 some donning and doffing time prior to the  
20 negotiations?  
21 A. Yes.  
22 Q. How did you become aware?  
23 A. At the weekly staff meeting.

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1 Q. What was discussed at the  
2 weekly staff meeting?  
3 A. Just that it was being  
4 discussed.  
5 Q. Who told you that?  
6 A. I don't know.  
7 Q. Do you know when?  
8 A. No.  
9 Q. How many times was this  
10 discussed in a weekly staff meeting?  
11 A. I don't know.  
12 Q. Was it just the once?  
13 A. No.  
14 Q. Did you make any comments on  
15 whether the company should pay for it?  
16 A. No.  
17 Q. Do you recall anyone making  
18 any comments in the --  
19 A. No.  
20 Q. When you say it was discussed,  
21 was it just -- were you just informed of it  
22 or was there an actual discussion among all  
23 of the people in the staff meeting?

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| <p style="text-align: right;">86</p> <p>1 A. Just general information.</p> <p>2 Q. Do you know who provided this</p> <p>3 general information?</p> <p>4 A. No.</p> <p>5 Q. Who leads the weekly staff</p> <p>6 meeting?</p> <p>7 A. General manager.</p> <p>8 Q. And that's Mr. --</p> <p>9 A. Tim Esslinger.</p> <p>10 Q. What information is maintained</p> <p>11 or retrievable on the computer or other</p> <p>12 electronic means about employees that work</p> <p>13 for Equity? What kind of employment</p> <p>14 information is maintained?</p> <p>15 A. I have to hear that question</p> <p>16 again.</p> <p>17 Q. What kind of -- Do you</p> <p>18 maintain computer records on all employees</p> <p>19 in addition to the Kronos system or is it</p> <p>20 just the Kronos information?</p> <p>21 A. Yes, we do.</p> <p>22 Q. What kind of information is</p> <p>23 maintained electronically?</p>  | <p style="text-align: right;">88</p> <p>1 keep total number of hours that they work</p> <p>2 electronically?</p> <p>3 A. It's in there.</p> <p>4 Q. Is there any other program</p> <p>5 that you're aware of other than the Kronos</p> <p>6 that Equity uses that shows how many hours</p> <p>7 an employee worked?</p> <p>8 A. Lawson.</p> <p>9 Q. Spell that?</p> <p>10 A. L-A-W-S-O-N.</p> <p>11 Q. And what is that program?</p> <p>12 A. What I just described to you,</p> <p>13 what we just talked about.</p> <p>14 Q. So that's something different</p> <p>15 than the clock-in/clock-out Kronos program?</p> <p>16 A. Yes. This is only for time</p> <p>17 keeping.</p> <p>18 Q. Kronos is only for time</p> <p>19 keeping?</p> <p>20 A. Yes.</p> <p>21 Q. This other information is</p> <p>22 stored through Lawson, and that's the name</p> <p>23 of the program?</p> |
| <p style="text-align: right;">87</p> <p>1 A. Standard employee information</p> <p>2 just like any company would.</p> <p>3 Q. I can promise you, my company</p> <p>4 doesn't have electronic records on people,</p> <p>5 so you need to tell me.</p> <p>6 Do you keep like payroll</p> <p>7 records -- I mean, employee log records or</p> <p>8 what information does -- when you say</p> <p>9 standard, what do you mean by standard?</p> <p>10 What does Equity keep electronically?</p> <p>11 A. I can't begin to list</p> <p>12 everything that we keep without having</p> <p>13 something in front of me. If you will ask</p> <p>14 me and I know that we keep it, I'll be glad</p> <p>15 to say.</p> <p>16 Q. In your job in the payroll</p> <p>17 department, what information do you know</p> <p>18 that they keep electronically on employees?</p> <p>19 A. Name, address, withholdings,</p> <p>20 job code, department, pay rate, phone</p> <p>21 number. That's about all I can think of off</p> <p>22 the top of my head.</p> <p>23 Q. Does it show the -- Do you</p> | <p style="text-align: right;">89</p> <p>1 A. Yes.</p> <p>2 Q. Would the Lawson program also</p> <p>3 prepare the W-2 forms, or is that prepared</p> <p>4 by another program?</p> <p>5 A. I'm not sure. That's done at</p> <p>6 corporate.</p> <p>7 Q. Do you have any involvement in</p> <p>8 preparing any work rules for employees or</p> <p>9 policies for employees?</p> <p>10 A. No.</p> <p>11 Q. The hourly employees?</p> <p>12 A. (Witness shakes head in the</p> <p>13 negative.)</p> <p>14 Q. Do you have any involvement in</p> <p>15 employee orientation?</p> <p>16 A. No.</p> <p>17 Q. Do you have any involvement in</p> <p>18 preparing the employee handbook?</p> <p>19 A. No.</p> <p>20 Q. Let me show you what was</p> <p>21 marked as Exhibit 16.</p> <p>22 MS. MCGOWAN: Howard, do you</p> <p>23 have that?</p>   |



| 90  | 92  |
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| <p>1 MR. ROSENTHAL: The<br/>2 organizational chart?<br/>3 MS. MCGOWAN: Yes.<br/>4 MR. ROSENTHAL: I don't have<br/>5 an extra copy.<br/>6 Q. Look at Exhibit 16 and see if<br/>7 you can find your organizational chart for<br/>8 your department or where you are in those.<br/>9 A. Well, it's not in here --<br/>10 Q. Let me have you look at --<br/>11 A. -- other than right here<br/>12 (indicating).<br/>13 Q. Okay. On the general<br/>14 organization chart?<br/>15 A. Right.<br/>16 Q. It shows where you are a<br/>17 direct report to Tim?<br/>18 A. Yes.<br/>19 Q. All right.<br/>20 A. But my organizational chart is<br/>21 not in there.<br/>22 Q. Let me have you look at<br/>23 Exhibit Number 10 and see if your</p>   | <p>1 A. Under John Fulford, the live<br/>2 accounting manager, he has breeder clerk,<br/>3 broiler clerk, receptionist, and feed clerk.<br/>4 Q. When you say clerk, are these<br/>5 like --<br/>6 A. Salary, non-exempt.<br/>7 Q. What do they do, what kind of<br/>8 work?<br/>9 A. Office work.<br/>10 Q. They're not out feeding?<br/>11 A. No.<br/>12 Q. These are, like, payroll<br/>13 people?<br/>14 A. Yes.<br/>15 Q. Is this another payroll.<br/>16 A. Shauna has two pay clerks and<br/>17 a fixed asset cash receivables clerk. Jeff<br/>18 has a cost clerk and Dawn has a yield clerk<br/>19 and three accounts payable clerks.<br/>20 Q. What does a yield clerk do?<br/>21 A. Calculates the dressed weight<br/>22 from a live chicken.<br/>23 Q. How many pounds you're getting</p> |
| 91  | 93  |
| <p>1 organizational chart is in here.<br/>2 A. No.<br/>3 Q. Are you listed in the general<br/>4 organizational chart in Exhibit 10?<br/>5 A. No.<br/>6 Q. You told me you had four<br/>7 direct reports?<br/>8 A. Yes.<br/>9 Q. How many employees do you have<br/>10 under your supervision?<br/>11 A. Fifteen.<br/>12 Q. Fifteen?<br/>13 A. (Witness nods head in the<br/>14 affirmative.)<br/>15 Q. And other than the three<br/>16 people in your payroll department you told<br/>17 me about, and the three other managers that<br/>18 report directly to you, what other job<br/>19 classifications are under your supervision?<br/>20 A. Under their supervision?<br/>21 Q. Under your department. You<br/>22 said fifteen, of those fifteen, tell me what<br/>23 the other job classifications are.</p> | <p>1 per bird?<br/>2 A. That's it.<br/>3 Q. You went to work for Equity in<br/>4 '04. Where did you work prior to that?<br/>5 A. Three years prior to that was<br/>6 with ConAgra Poultry.<br/>7 Q. Where?<br/>8 A. Canton, Georgia.<br/>9 Q. What job?<br/>10 A. Controller.<br/>11 Q. Why did you leave ConAgra?<br/>12 A. To come to Equity Group,<br/>13 Eufaula.<br/>14 Q. Prior to ConAgra where -- Were<br/>15 you always the controller?<br/>16 A. Uh-huh.<br/>17 Q. Prior to ConAgra, where were<br/>18 you?<br/>19 A. Tyson Foods.<br/>20 Q. Where?<br/>21 A. Oxford, Alabama, and<br/>22 Springdale, Arkansas.<br/>23 Q. When were you in Oxford?</p>  |



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|---|---|
| <p style="text-align: right;">94</p> <p>1 A. Where in Oxford?</p> <p>2 Q. When?</p> <p>3 A. 1975 to 1999.</p> <p>4 Q. What position?</p> <p>5 A. Manager of financial analysis</p> <p>6 and then controller, those two positions.</p> <p>7 Q. To whom did you report as</p> <p>8 controller?</p> <p>9 A. It was owned by Kentucky Fried</p> <p>10 Chicken and Lane Processing, I reported to</p> <p>11 the general manager.</p> <p>12 When it was purchased by Tyson</p> <p>13 Foods, then I reported to the finance</p> <p>14 department in Springdale, Arkansas, the</p> <p>15 corporate headquarters.</p> <p>16 Q. When were you at Springdale?</p> <p>17 A. 1999 to 2001.</p> <p>18 Q. What position?</p> <p>19 A. I was the corporate grow-out</p> <p>20 controller.</p> <p>21 Q. To whom did you report?</p> <p>22 A. Reported to the director of</p> <p>23 operational accounting.</p> | <p style="text-align: right;">96</p> <p>1 Q. Do you have any relatives in</p> <p>2 Alabama?</p> <p>3 A. I married someone from Alabama</p> <p>4 when I came down -- when I moved to Alabama,</p> <p>5 and so I have --</p> <p>6 Q. In-laws?</p> <p>7 A. -- those relatives.</p> <p>8 Q. What was your -- those</p> <p>9 relatives last names?</p> <p>10 A. James, Gilmore. That's it.</p> <p>11 Q. Are you related to Kathy</p> <p>12 Gilmore?</p> <p>13 A. No.</p> <p>14 Q. Are they located in this area,</p> <p>15 the Eufaula area, the relatives in --</p> <p>16 A. Pell City.</p> <p>17 Q. Pell City?</p> <p>18 A. Yes.</p> <p>19 Q. Any located outside of the</p> <p>20 Pell City area, any relatives in Alabama?</p> <p>21 A. There are some in Northport.</p> <p>22 Q. That's the Tuscaloosa area?</p> <p>23 A. My wife's aunts, if that's</p>        |
| <p style="text-align: right;">95</p> <p>1 Q. Who was that?</p> <p>2 A. Ron Van Es, V-A-N E-S.</p> <p>3 Q. Is that one word?</p> <p>4 A. Two.</p> <p>5 Q. Why did you leave Tyson?</p> <p>6 A. For the job with ConAgra</p> <p>7 Poultry in Canton, Georgia.</p> <p>8 Q. Prior to the Oxford, Alabama,</p> <p>9 location, where did you work?</p> <p>10 A. I was at Kentucky Fried</p> <p>11 Chicken in Louisville, Kentucky, for two</p> <p>12 years prior to that.</p> <p>13 Q. What'd you do for them?</p> <p>14 A. I was a senior financial</p> <p>15 analyst.</p> <p>16 Q. And prior to Kentucky Fried</p> <p>17 Chicken?</p> <p>18 A. Three years with a CPA named</p> <p>19 Touche Ross, that was in Louisville,</p> <p>20 Kentucky.</p> <p>21 Q. Are you from Louisville?</p> <p>22 A. No. I'm from central</p> <p>23 Kentucky.</p>  | <p style="text-align: right;">97</p> <p>1 what you're talking about.</p> <p>2 Q. I want to make sure they would</p> <p>3 not be on the jury if they're down here.</p> <p>4 Are they all in north Alabama?</p> <p>5 A. Yes.</p> <p>6 MS. MCGOWAN: Can we take a</p> <p>7 break?</p> <p>8 (Recess taken.)</p> <p>9 Q. (BY MS. MCGOWAN): Have you</p> <p>10 had any training or seminars on the Fair</p> <p>11 Labor Standards Act and requirements?</p> <p>12 A. No.</p> <p>13 Q. Have you had any training or</p> <p>14 seminars on wage and hour loss?</p> <p>15 A. No.</p> <p>16 Q. Do managers in the fresh plant</p> <p>17 or the further processing plant receive</p> <p>18 bonuses for keeping their overtime hours</p> <p>19 down?</p> <p>20 A. No.</p> <p>21 Q. Are you aware of any --</p> <p>22 A. Wait. I'm not aware of it if</p> <p>23 they do.</p> |

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|---|---|
| <p>98</p> <p>1 Q. Does anybody use your<br/>2 information on overtime hours to get<br/>3 bonuses?<br/>4 A. Not to my knowledge.<br/>5 Q. Are you aware of any DOL,<br/>6 Department of Labor, investigations or<br/>7 inquiries at Equity for pay practices?<br/>8 A. No, I'm not.<br/>9 Q. Are you aware of any Social<br/>10 Security mismatch letters that have come in?<br/>11 MR. ROSENTHAL: Objection.<br/>12 I'm going to direct the witness not to<br/>13 answer. Nothing to do with this litigation.<br/>14 MS. MCGOWAN: Well, we're in<br/>15 discovery, and it could lead to relevant<br/>16 information as to their record retention<br/>17 information.<br/>18 MR. ROSENTHAL: Bring it up to<br/>19 the Judge.<br/>20 MS. MCGOWAN: Unless there is<br/>21 privilege, you have to answer.<br/>22 MR. ROSENTHAL: I've directed<br/>23 the witness not to answer. Bring it up with</p>  | <p>100</p> <p>1 asked for any practices or guidelines with<br/>2 regards to edited payroll records.<br/>3 And, also, I think when we<br/>4 were talking about looking at the Kronos<br/>5 reports, and you said you were going to<br/>6 check into whether or not that could be done<br/>7 electronically, whether we could get that if<br/>8 you had anything, have you found out about<br/>9 that?<br/>10 MR. ROSENTHAL: No. I told<br/>11 you I'd follow-up next week.<br/>12 MS. MCGOWAN: What about when<br/>13 can we go inspect the hard copies?<br/>14 MR. ROSENTHAL: I'll have to<br/>15 resolve that next week.<br/>16 MS. MCGOWAN: Okay. They<br/>17 wouldn't be available for inspection<br/>18 tomorrow?<br/>19 MR. ROSENTHAL: No.<br/>20 MS. MCGOWAN: That's all I<br/>21 have.<br/>22 (The deposition was concluded at 7:00 p.m.,<br/>23 June 12th, 2008.)</p> |
| <p>99</p> <p>1 the Judge.<br/>2 Q. Okay. In the Kronos reports,<br/>3 if you look at Exhibit Number 27 -- 23,<br/>4 under the third line down, it says -- at the<br/>5 very top left, it says: Time period query,<br/>6 and then it has actual/adjusted. Do you<br/>7 know what that means?<br/>8 A. I'm not finding that.<br/>9 Q. Right here (indicating), where<br/>10 it says: Actual hours only. Do you know<br/>11 what that means?<br/>12 A. No.<br/>13 Q. Do you know who would know<br/>14 what that means?<br/>15 A. No, I wouldn't know who.<br/>16 MS. MCGOWAN: Howard, in<br/>17 response to your request that I look at the<br/>18 request for productions to see if we've<br/>19 requested those documents, it's our position<br/>20 that number -- request number six would have<br/>21 been the e-mail setting out the guidelines<br/>22 for when these edits are due back would be<br/>23 encompassed under request number six. We've</p> | <p>101</p> <p>1 REPORTER'S CERTIFICATE<br/>2 STATE OF ALABAMA,<br/>3 ELMORE COUNTY,<br/>4 I, Sara Mahler, Certified Court<br/>5 Reporter and Commissioner for the State of<br/>6 Alabama at Large, do hereby certify that the<br/>7 above and foregoing proceeding was taken<br/>8 down by me by stenographic means, and that<br/>9 the content herein was produced in<br/>10 transcript form by computer aid under my<br/>11 supervision, and that the foregoing<br/>12 represents, to the best of my ability, a<br/>13 true and correct transcript of the<br/>14 proceedings occurring on said date and at<br/>15 said time.<br/>16 I further certify that I am neither<br/>17 of kin nor of counsel to the parties to the<br/>18 action; nor in any manner interested in the<br/>19 result of said case.<br/>20<br/>21<br/>22<br/>23 Sara Mahler, CCR<br/>ACCR #420</p>    |

**TAB 45**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF

CORETTA REEVES

JOB NO. 1101-58403

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 22nd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of CORETTA REEVES may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 22nd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6</p> <p>5 Mr. Steensland 38</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |

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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 4:39 p.m., CORETTA REEVES, in<br/> 4 the above cause, for oral examination, whereupon<br/> 5 the following proceedings were had:<br/> 6<br/> 7 CORETTA REEVES,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 EXAMINATION BY MR. FRY:<br/> 12 Q. Good afternoon, Ms. Reeves. How are<br/> 13 you?<br/> 14 A. Fine. And you?<br/> 15 Q. My name is Gary Fry. I'm a lawyer<br/> 16 for Equity Group Eufaula, the plant over in Baker<br/> 17 Hill. And we have asked you to come here today to<br/> 18 answer some questions that we have about the<br/> 19 lawsuit that you and some of the other folks have<br/> 20 brought against the company. Have you ever been<br/> 21 deposed before?<br/> 22 A. No.<br/> 23 Q. I'm going to be asking you some</p>   | <p style="text-align: right;">8</p> <p>1 A. Yes.<br/> 2 Q. By whom?<br/> 3 A. Equipment Transit.<br/> 4 Q. At one point you worked at the Equity<br/> 5 plant?<br/> 6 A. Yes.<br/> 7 Q. And for what period of time?<br/> 8 A. Overall a period of maybe<br/> 9 two-and-a-half years.<br/> 10 Q. Can you give me when you started and<br/> 11 when you stopped?<br/> 12 A. The first time I was there, it was<br/> 13 back in maybe 2001. And the second time was maybe<br/> 14 2003 also, and maybe -- the last of 2005 this last<br/> 15 time -- no, sorry about that -- 2007 was this last<br/> 16 time.<br/> 17 Q. Okay. So you worked there on three<br/> 18 separate occasions?<br/> 19 A. Uh-huh.<br/> 20 Q. On each of those occasions was it<br/> 21 just a couple of months, or was it as long as a<br/> 22 year?<br/> 23 A. It was about a year, year and a</p>            |
| <p style="text-align: right;">7</p> <p>1 questions, and you will be giving me your answers,<br/> 2 and Victoria will be taking down all of our words.<br/> 3 Because she's recording this, she can't record us<br/> 4 if we are talking at the same time. So if we don't<br/> 5 talk over each other, that will be best -- then so<br/> 6 we can try to avoid that. And if you can remember<br/> 7 to keep your responses verbal, because she can't<br/> 8 take down a nod or a shake of the head. Okay?<br/> 9 A. Okay.<br/> 10 Q. If you don't understand any of my<br/> 11 questions, it's important that you let me know that<br/> 12 so I can rephrase it. Sometimes my questions<br/> 13 aren't all that clear, as your lawyer can testify<br/> 14 to, I'm sure. So let me know, and I will try and<br/> 15 rephrase the question so that it will be clear to<br/> 16 you. And if you don't hear anything I say, again<br/> 17 let me know, and I will repeat it. Okay?<br/> 18 A. Okay.<br/> 19 Q. Where do you live?<br/> 20 A. Georgetown, Georgia.<br/> 21 Q. And what is your date of birth?<br/> 22 A. 2/4/1969.<br/> 23 Q. Are you currently employed?</p> | <p style="text-align: right;">9</p> <p>1 half. Then the last time I worked there it was<br/> 2 like a total of maybe two, two-and-a-half weeks.<br/> 3 Q. In 2007?<br/> 4 A. Yes.<br/> 5 Q. You only worked two weeks in 2007?<br/> 6 A. About two weeks, yes.<br/> 7 Q. How long did you work there in 2003?<br/> 8 A. I would say about a year, maybe a<br/> 9 year and three months.<br/> 10 Q. And how about in 2001?<br/> 11 A. Maybe -- not quite two years. Maybe<br/> 12 a year and eight months, or something like that.<br/> 13 From 2001 -- about a year.<br/> 14 Q. So in or about 2001 you worked for<br/> 15 about a year and eight months?<br/> 16 A. Yes.<br/> 17 Q. And then in 2003 a year and three<br/> 18 months?<br/> 19 A. Yes.<br/> 20 Q. And then in 2007 you worked for two<br/> 21 weeks?<br/> 22 A. Yes.<br/> 23 Q. And am I correct that in 2001 the</p> |

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| <p style="text-align: right;">10</p> <p>1 plant was operated by CP?</p> <p>2 A. It was, yes.</p> <p>3 Q. And you know who I'm referring to</p> <p>4 when I say CP?</p> <p>5 A. Yes, Charoen Pokphand.</p> <p>6 Q. And the plant was also operated by CP</p> <p>7 in 2003?</p> <p>8 A. I believe it was with -- yes. I'm</p> <p>9 not quite -- yes, because they were fixing to go</p> <p>10 into the Equity Group then. I don't know if it was</p> <p>11 the last of that or first of 2004.</p> <p>12 Q. And Equity had it when you were there</p> <p>13 for the couple of weeks in '07?</p> <p>14 A. Yes.</p> <p>15 Q. What job did you have at the plant in</p> <p>16 the first period, the 2001 period?</p> <p>17 A. I was working in -- it was -- let me</p> <p>18 see exactly what's the name of it. It was -- yes,</p> <p>19 QA, quality assurance.</p> <p>20 Q. The whole time?</p> <p>21 A. Yes, I was doing on the line and then</p> <p>22 I was doing QA.</p> <p>23 Q. What were your job duties? What were</p>                                    | <p style="text-align: right;">12</p> <p>1 A. Working over at the cook plant, and I</p> <p>2 was like doing -- I was at pack-out, and you do</p> <p>3 like lots of sampling of the meat, like the bad</p> <p>4 meat you take it off the conveyor belt and you put</p> <p>5 it down a little shoot, and then also like when we</p> <p>6 switch out like for every two hours, then I go down</p> <p>7 and I do the packing.</p> <p>8 Q. That was all done in the cook plant?</p> <p>9 A. Yes.</p> <p>10 Q. What did you do for two weeks in</p> <p>11 2007?</p> <p>12 A. In evis I like cut the -- trim the</p> <p>13 fat off of the chickens, and it be on the line --</p> <p>14 assembly line, and then we switch out. I might</p> <p>15 like cut the chicken -- like cut them in half, and</p> <p>16 actually sucks the insides out of it, clean it out.</p> <p>17 Q. So you worked on the evis line?</p> <p>18 A. Yes.</p> <p>19 Q. For two weeks?</p> <p>20 A. Uh-huh.</p> <p>21 Q. You're a party to this lawsuit? You</p> <p>22 have a claim, correct?</p> <p>23 A. Yes, sir.</p>  |
| <p style="text-align: right;">11</p> <p>1 your functions?</p> <p>2 A. Okay. Because I was having a lot of</p> <p>3 problems with my hands at the time, so I started</p> <p>4 out like cutting tenders -- I mean, pulling</p> <p>5 tendons. Then I started out like doing the breast,</p> <p>6 like breast sampling, and then that's when I ended</p> <p>7 up at the line doing the QA, bone sampling at the</p> <p>8 end of the line.</p> <p>9 Q. Describe for me what you did each</p> <p>10 day.</p> <p>11 A. Just pulling the tenders and checking</p> <p>12 for bones.</p> <p>13 Q. That's all you did?</p> <p>14 A. Mostly all stay in the same spot</p> <p>15 doing that.</p> <p>16 Q. You would pull representative samples</p> <p>17 of the tenders and check to see if there were any</p> <p>18 bones?</p> <p>19 A. No, the tenders I just pull them off</p> <p>20 and put them on the conveyor belt, and they go down</p> <p>21 the line.</p> <p>22 Q. What did you do during the middle</p> <p>23 period in 2003 for a year and three months?</p> | <p style="text-align: right;">13</p> <p>1 Q. What's your understanding of what</p> <p>2 your claim is?</p> <p>3 A. To my understanding is we work -- was</p> <p>4 working hours and stuff, but we wasn't actually</p> <p>5 getting paid for everything that we was working,</p> <p>6 all the hours that we was working.</p> <p>7 Q. What work did you do that you weren't</p> <p>8 paid for, what's your understanding?</p> <p>9 A. Well, to my understanding, the best</p> <p>10 of my knowledge, like when we first come to work</p> <p>11 and put on our PPE and going to do our wash down,</p> <p>12 get to our workstation, and then once on our break,</p> <p>13 like coming from break we have to take the PPE off,</p> <p>14 had to go and hang it up, then coming back from</p> <p>15 break, putting it back on, going home, taking it</p> <p>16 off, and like that's basically what it was. We</p> <p>17 wasn't getting paid for all that.</p> <p>18 Q. Is it your understanding that your</p> <p>19 claim relates to all three periods in which you</p> <p>20 worked?</p> <p>21 A. Yes.</p> <p>22 Q. Were you a member of the Union?</p> <p>23 A. No, I wasn't.</p> |



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| <p style="text-align: right;">14</p> <p>1 Q. Did you review any documents in</p> <p>2 preparation for coming here today?</p> <p>3 A. No.</p> <p>4 Q. Did you talk with anybody besides</p> <p>5 your lawyers about coming here today?</p> <p>6 A. Only thing they did, they called me</p> <p>7 and told me what time to be here, and I got off of</p> <p>8 work and came here.</p> <p>9 Q. The PPE that you referred to, let's</p> <p>10 go back to 2001 when you were working for CP in QA,</p> <p>11 what sort of outer garments, or PPE, did you wear</p> <p>12 on that job?</p> <p>13 A. We had to wear face mask, hair nets.</p> <p>14 We had to wear like the smocks, aprons, the gloves,</p> <p>15 of course the boots and the goggles.</p> <p>16 Q. The first thing you mentioned was a</p> <p>17 face mask?</p> <p>18 A. No, like the beard mask.</p> <p>19 Q. The beard mask. So --</p> <p>20 A. Had to wear ear plugs.</p> <p>21 Q. Anything else?</p> <p>22 A. No more just the glove, the warmers,</p> <p>23 the aprons.</p>                                  | <p style="text-align: right;">16</p> <p>1 A. Just the boots.</p> <p>2 Q. And boots?</p> <p>3 A. Uh-huh.</p> <p>4 Q. You didn't have to wear the sleeves</p> <p>5 when you worked in QA in 2001, did you?</p> <p>6 A. No, not in the bone sampling part, we</p> <p>7 didn't. We wasn't really recommended to have to</p> <p>8 put those on.</p> <p>9 Q. What did you wear for two weeks in</p> <p>10 evis in 2007?</p> <p>11 A. We had to wear the smocks; we wore</p> <p>12 the aprons, the sleeves; we wore the goggles, the</p> <p>13 ear plugs, the boots, the gloves, the hand warmers;</p> <p>14 and we also had to wear, like it was some kind of</p> <p>15 like glove, like a little cutting glove we had to</p> <p>16 put on.</p> <p>17 Q. A chain mesh glove?</p> <p>18 A. Yes.</p> <p>19 Q. You have mentioned on two occasions</p> <p>20 here hand warmers. What were they?</p> <p>21 A. We had to put those up under the blue</p> <p>22 or the green gloves that we had to wear, and we had</p> <p>23 to wear those up under it.</p>                                   |
| <p style="text-align: right;">15</p> <p>1 Q. Let me run down the list and make</p> <p>2 sure we got everything. When you were working at</p> <p>3 QA for CP in 2001, what you were wearing were beard</p> <p>4 net, the hair net, a smock, an apron, gloves,</p> <p>5 boots, goggles, and ear plugs?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Anything else?</p> <p>8 A. Not that I can recall.</p> <p>9 Q. Was it your understanding that each</p> <p>10 of those items was required for your job?</p> <p>11 A. Yes.</p> <p>12 Q. Let's go to the 2003 period at CP</p> <p>13 when you were working at the cook plant. What did</p> <p>14 you wear?</p> <p>15 A. We wear the same garments that we was</p> <p>16 wearing -- the apron, the smocks; we had to wear</p> <p>17 the hair net, the beard net; we had to wear ear</p> <p>18 plugs, goggles, boots, the hand warmers, the</p> <p>19 gloves, the sleeves. Basically that was all.</p> <p>20 Q. Apron, smock, hair net, beard net,</p> <p>21 ear plugs, goggles, sleeves?</p> <p>22 A. Yes.</p> <p>23 Q. Anything else?</p> | <p style="text-align: right;">17</p> <p>1 Q. What were the hand warmers?</p> <p>2 A. To me, I didn't see any purpose, but</p> <p>3 we had to have them on. I guess to keep your hands</p> <p>4 warm and stuff because touching the poultry and</p> <p>5 all, some of it be cold, and you have to put those</p> <p>6 on.</p> <p>7 Q. Are you referring to the white cotton</p> <p>8 lining gloves, those are the hand warmers you are</p> <p>9 referring to?</p> <p>10 A. Yes.</p> <p>11 Q. So at evis you wore a smock, an</p> <p>12 apron, sleeves, goggles, ear plugs, boots, gloves</p> <p>13 with the white cotton liners, and you wore a mesh</p> <p>14 glove, or used a mesh glove on the line?</p> <p>15 A. Yes.</p> <p>16 Q. Was it your understanding that you</p> <p>17 were required to wear all of these things at all</p> <p>18 three jobs?</p> <p>19 A. Yes.</p> <p>20 Q. At all three jobs did the company, be</p> <p>21 it CP or Equity, issue you these items?</p> <p>22 A. Yes, they will issue it to you.</p> <p>23 Q. With the QA job, did you pick up any</p> |

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| <p style="text-align: right;">18</p> <p>1 of these items on a daily basis?</p> <p>2 A. Yes.</p> <p>3 Q. What did you pick up on a daily</p> <p>4 basis?</p> <p>5 A. Mostly what we had to do is pick up</p> <p>6 the smocks, maybe the hair net, ear plugs, and the</p> <p>7 beard mask.</p> <p>8 Q. What about when you worked at the</p> <p>9 cook plant, what items did you pick up on a daily</p> <p>10 basis?</p> <p>11 A. We had ear plugs, the hair net, the</p> <p>12 beard net; we had to pick up -- sometimes the</p> <p>13 gloves, the rubber gloves.</p> <p>14 Q. On a daily basis?</p> <p>15 A. Yes.</p> <p>16 Q. And the smock, too?</p> <p>17 A. Yes.</p> <p>18 Q. When you worked in evis in 2007, what</p> <p>19 did you pick up on a daily basis?</p> <p>20 A. The smocks, the hair net, beard net,</p> <p>21 the ear plugs -- well, they gave you the glove, the</p> <p>22 cutting glove.</p> <p>23 Q. On any of these jobs were you</p>   | <p style="text-align: right;">20</p> <p>1 A. The second.</p> <p>2 Q. So when I said the morning, that</p> <p>3 wasn't correct. You went to work in the</p> <p>4 afternoon. What were your hours, do you recall?</p> <p>5 A. No, I don't.</p> <p>6 Q. Do you recall what shift you worked</p> <p>7 at CP in 2003 when you worked in the cook plant?</p> <p>8 A. Yes, first.</p> <p>9 Q. So you started in the morning?</p> <p>10 A. Uh-huh.</p> <p>11 Q. And those items of clothing that you</p> <p>12 told me you wore in the cook plant, where did you</p> <p>13 put those on?</p> <p>14 A. Inside of the -- right before you go</p> <p>15 into the cook plant, it's a little area right there</p> <p>16 where you can hang your garments up. Once you come</p> <p>17 out of there, you have to hang them up in the</p> <p>18 little -- we got dressed in that area.</p> <p>19 Q. You might have told me this -- and if</p> <p>20 you did, I apologize -- but what did you do at the</p> <p>21 cook plant?</p> <p>22 A. I ran the assembly line, like the bad</p> <p>23 meat that comes down the conveyor belt, you had to</p> |
| <p style="text-align: right;">19</p> <p>1 permitted to wear any of these items from your</p> <p>2 home?</p> <p>3 A. No.</p> <p>4 Q. Not even the boots?</p> <p>5 A. The boots we could. Yes, the boots.</p> <p>6 Q. When you worked for QA, tell me where</p> <p>7 in the plant you worked.</p> <p>8 A. At the very end of the line.</p> <p>9 Q. In the debone department?</p> <p>10 A. Uh-huh, yes.</p> <p>11 Q. And when you worked for QA, where did</p> <p>12 you put all these things on that you just described</p> <p>13 for me?</p> <p>14 A. We had to put them on inside of the</p> <p>15 plant, inside the work area.</p> <p>16 Q. On the debone production floor?</p> <p>17 A. Yes, sir.</p> <p>18 Q. How much time would you estimate that</p> <p>19 it took you to put this stuff on in the morning?</p> <p>20 A. Anywhere from, I would say five to</p> <p>21 seven minutes.</p> <p>22 Q. Incidentally, what shift did you work</p> <p>23 at the CP plant in 2001, when you were in QA?</p> | <p style="text-align: right;">21</p> <p>1 take it out from the good meat and throw it down,</p> <p>2 then we swap out like every two hours, and then I</p> <p>3 pack the meat in the boxes to be shipped out.</p> <p>4 Q. And the cook plant, the function of</p> <p>5 the cook plant, am I correct, was to cook the meat?</p> <p>6 A. It be processed meat.</p> <p>7 Q. The cook plant was separated from the</p> <p>8 portion of the plant that the debone and the</p> <p>9 evisceration departments were in?</p> <p>10 A. Yes.</p> <p>11 Q. And the debone and evisceration</p> <p>12 departments did their job, and then that fresh meat</p> <p>13 was transported over to the cook plant where you</p> <p>14 worked on it in 2003; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. What shift did you work in 2007 when</p> <p>17 you worked in evis?</p> <p>18 A. Second.</p> <p>19 Q. What were the hours of your shift?</p> <p>20 A. I'm not sure.</p> <p>21 Q. Let me go back to the cook plant.</p> <p>22 Those items of clothing that you put on, how long</p> <p>23 did it take you to put those on?</p>             |

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| <p style="text-align: right;">22</p> <p>1 A. Anywhere from five to seven minutes.</p> <p>2 Q. Okay. When you worked in evis in</p> <p>3 2007, where did you put those items on?</p> <p>4 A. In 2007 we put it on in the</p> <p>5 workstation inside of evisceration.</p> <p>6 Q. On the evis floor?</p> <p>7 A. Yes.</p> <p>8 Q. Approximately how long would it take</p> <p>9 you to put those on?</p> <p>10 A. I would say maybe six to eight</p> <p>11 minutes with that, because you have to put on the</p> <p>12 little cutting glove, the wire gloves.</p> <p>13 Q. Was the job that you did at evis, is</p> <p>14 that the only one of these three jobs that you used</p> <p>15 a knife or scissors?</p> <p>16 A. Yes.</p> <p>17 Q. Were those implements provided to you</p> <p>18 when you were on the line?</p> <p>19 A. Yes. Once we got to the line, they</p> <p>20 brought them around.</p> <p>21 Q. Is that where you also got the mesh</p> <p>22 glove?</p> <p>23 A. Yes, at the workstation they give it</p>        | <p style="text-align: right;">24</p> <p>1 Q. Two 30-minutes?</p> <p>2 A. Uh-huh.</p> <p>3 Q. When you came onto the property for</p> <p>4 any of these three jobs, did you have to go through</p> <p>5 any security procedures?</p> <p>6 A. Like at the gate when you first</p> <p>7 coming in?</p> <p>8 Q. Yes.</p> <p>9 A. Well, you had to come through and</p> <p>10 show your badge, and sometimes you had to stop</p> <p>11 because the other cars that's in front of you they</p> <p>12 maybe didn't have what they needed or whatever,</p> <p>13 they took longer.</p> <p>14 Q. So if you had your badge, they just</p> <p>15 waved you on through?</p> <p>16 A. Sometimes they would.</p> <p>17 Q. Did that method of access, was that</p> <p>18 in existence at all three jobs -- if you showed</p> <p>19 your badge, you could go in?</p> <p>20 A. Yes.</p> <p>21 Q. Were you ever searched when you</p> <p>22 entered or left the premises on any of these jobs?</p> <p>23 A. No, I wasn't.</p>   |
| <p style="text-align: right;">23</p> <p>1 to you.</p> <p>2 Q. How many breaks did you get in 2001</p> <p>3 when you worked in QA for CP?</p> <p>4 A. To be honest that been so long ago, I</p> <p>5 want to say maybe -- during that time it was maybe</p> <p>6 three breaks, because like it was like one</p> <p>7 15-minute break and two 10-minutes.</p> <p>8 Q. One 15 and two 10?</p> <p>9 A. Uh-huh.</p> <p>10 Q. So you had three breaks that total 35</p> <p>11 minutes?</p> <p>12 A. It wasn't actually 35, but it was --</p> <p>13 yes, I think it was.</p> <p>14 Q. How many breaks did you get when you</p> <p>15 were working at CP in 2003 at the cook plant?</p> <p>16 A. At the cook plant it was two breaks.</p> <p>17 Q. How long were the two breaks?</p> <p>18 A. To be honest, I don't know. I never</p> <p>19 really timed it, but they said it was for -- it</p> <p>20 supposed to be like two 30-minute breaks, but I</p> <p>21 never timed it.</p> <p>22 Q. What about in evis?</p> <p>23 A. The same.</p> | <p style="text-align: right;">25</p> <p>1 Q. When you left after the end of the</p> <p>2 workday on each of these jobs, could you just drive</p> <p>3 out?</p> <p>4 A. Yes.</p> <p>5 Q. When you worked QA in 2001, you told</p> <p>6 us that you put on these items of clothing on the</p> <p>7 production floor in advance of the start of your</p> <p>8 shift and it took you five to seven minutes. Would</p> <p>9 you enter -- you have to say yes.</p> <p>10 A. Okay.</p> <p>11 Q. Would you enter the production floor</p> <p>12 about five to seven minutes before the start in</p> <p>13 order to put on your stuff?</p> <p>14 A. I entered in time enough to put on my</p> <p>15 stuff. But once you get -- because you have to go</p> <p>16 through the wash station and all that, and</p> <p>17 sometimes that takes longer because other people be</p> <p>18 on there. But most of the time I have on</p> <p>19 everything I am supposed to have on until I can get</p> <p>20 to the sanitizing part.</p> <p>21 Q. When you are working QA, you had to</p> <p>22 go through a foot bath?</p> <p>23 A. Yes.</p> |

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| <p style="text-align: right;">26</p> <p>1 Q. And you were carrying your PPE with</p> <p>2 you when you went through the foot bath?</p> <p>3 A. Yes. That's when we started put it</p> <p>4 on, once we got back to it.</p> <p>5 Q. Once you got in, you started putting</p> <p>6 it on?</p> <p>7 A. We started putting on like our hair</p> <p>8 nets and the ear plugs, the beard mask. But</p> <p>9 actually before you can put on the smock, you had</p> <p>10 to be inside on the floor.</p> <p>11 Q. How many minutes before the start of</p> <p>12 the shift would you start that process?</p> <p>13 A. Rephrase that for me. I didn't quite</p> <p>14 understand that one.</p> <p>15 Q. I think you told me you didn't</p> <p>16 recollect the start time when you worked QA in</p> <p>17 2001; is that correct?</p> <p>18 A. No, I don't know exactly what was the</p> <p>19 shift at that time. I don't remember. Being</p> <p>20 honest with you, I don't.</p> <p>21 Q. But we know that you did have a start</p> <p>22 time?</p> <p>23 A. Yes.</p>  | <p style="text-align: right;">28</p> <p>1 there at 4:30, I at least try to get in there by</p> <p>2 4:15, no later than 4:20.</p> <p>3 Q. And what about when you worked in</p> <p>4 evis in 2007?</p> <p>5 A. Same.</p> <p>6 Q. About 15 minutes you would go on the</p> <p>7 floor?</p> <p>8 A. About 15 minutes after.</p> <p>9 Q. Let's go in reverse order now. Let's</p> <p>10 start with evis in 2007, because that might be more</p> <p>11 fresh in your memory. And let's talk about</p> <p>12 breaks. How did you know when it was time for you</p> <p>13 to go on your break?</p> <p>14 A. The only reason that I know that it</p> <p>15 was time to go on break, like I see, the following</p> <p>16 people that's ahead of the line start leaving the</p> <p>17 line, and I assume that it would be break time</p> <p>18 then.</p> <p>19 Q. And you were permitted to leave when</p> <p>20 the last bird passed your station?</p> <p>21 A. Yes.</p> <p>22 Q. What did you have to do in order to</p> <p>23 be permitted to leave the evis production floor?</p>   |
| <p style="text-align: right;">27</p> <p>1 Q. You had to be on the floor ready to</p> <p>2 go do your QA job?</p> <p>3 A. Uh-huh.</p> <p>4 Q. And you couldn't put your stuff on</p> <p>5 before you walked onto the floor, correct?</p> <p>6 A. Yes, correct.</p> <p>7 Q. How many minutes before the start</p> <p>8 time of your job did you walk onto that floor to</p> <p>9 put your stuff on?</p> <p>10 A. I don't know if it's the right time.</p> <p>11 But if I had to be there like at work on the</p> <p>12 floor at 4:30, I usually try to get in there at</p> <p>13 least about 4:15, no later than 4:20.</p> <p>14 Q. Same question for the cook plant.</p> <p>15 A. I always allow myself to try to get</p> <p>16 to work at least about 15, at least after or plenty</p> <p>17 -- at least give myself maybe 10 to 15 minutes to</p> <p>18 allow time to get on my stuff and be out on the</p> <p>19 floor the time I'm supposed to be on it.</p> <p>20 Q. So you would get in 10 to 15 minutes</p> <p>21 before --</p> <p>22 A. Like 15 minutes after or something.</p> <p>23 Then like if I have -- say for instance I had to be</p> | <p style="text-align: right;">29</p> <p>1 You had to wash off your --</p> <p>2 A. Yes, we had to wash our clothes --</p> <p>3 off the apron and stuff, wash it down, sanitize our</p> <p>4 hands with the gloves on. We had to take all our</p> <p>5 PPE equipments off, hang them up, then that's when</p> <p>6 we proceed to go out of the work area.</p> <p>7 Q. How long would that process take you?</p> <p>8 A. About -- to take off stuff, maybe</p> <p>9 about anywhere from five, maybe six minutes.</p> <p>10 Q. When you came back from break, you</p> <p>11 did the reverse, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And would it take you the same amount</p> <p>14 of time?</p> <p>15 A. Yes, anywhere from six, seven minutes</p> <p>16 putting it on because you have to do your boots and</p> <p>17 sanitize all that coming out -- coming back in.</p> <p>18 Q. At the end of the day during those</p> <p>19 two weeks you worked in evis, did you do</p> <p>20 essentially what you did at breaks, in terms of</p> <p>21 washing yourself off and taking your stuff off</p> <p>22 before you left the room?</p> <p>23 A. Sure, I did.</p> |

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| <p style="text-align: right;">30</p> <p>1 Q. What did you do with the smock?</p> <p>2 A. Once we got ready to leave for the</p> <p>3 end of the shift, we had to put our smocks outside</p> <p>4 in a barrel for dirty linen.</p> <p>5 Q. How long did that process take from</p> <p>6 the time you left the line position in evis until</p> <p>7 you walked out the door?</p> <p>8 A. Anywhere from -- I'd say about six</p> <p>9 minutes.</p> <p>10 Q. What did you have to do in terms of</p> <p>11 clothing to go on a break when you worked in the</p> <p>12 cook plant?</p> <p>13 A. We had to do the same procedure --</p> <p>14 wash down, and take off all our PPE, hang them up</p> <p>15 in a designated area for them, and go out on break.</p> <p>16 Q. How long did that take you?</p> <p>17 A. Anywhere from six to seven minutes.</p> <p>18 Q. You did the reverse when you came</p> <p>19 back from break?</p> <p>20 A. Yes.</p> <p>21 Q. And did it take about the same amount</p> <p>22 of time?</p> <p>23 A. About the same, maybe a little --</p> | <p style="text-align: right;">32</p> <p>1 Q. But then you went back in 2003?</p> <p>2 A. Yes, because the job that I was on,</p> <p>3 they had closed down the business.</p> <p>4 Q. Then why did you leave CP then after</p> <p>5 that stint?</p> <p>6 A. In 2003?</p> <p>7 Q. Yes, 2003.</p> <p>8 A. Because I went into another field of</p> <p>9 work.</p> <p>10 Q. And then you came back for a couple</p> <p>11 of weeks in 2007?</p> <p>12 A. Yes.</p> <p>13 Q. How did your employment end there?</p> <p>14 A. Because I was having problems with my</p> <p>15 hands swelling a lot.</p> <p>16 Q. When you were working QA, did you</p> <p>17 have an understanding as to how the company</p> <p>18 computed your hours for purposes of your pay?</p> <p>19 A. Yes, they did it with a Master Card,</p> <p>20 swiper card.</p> <p>21 Q. The Master Card?</p> <p>22 A. I guess that's the name of it. They</p> <p>23 call it -- a little card, and then they write your</p> |
| <p style="text-align: right;">31</p> <p>1 well, no more than about seven.</p> <p>2 Q. At the end of the day, how long did</p> <p>3 it take you to do the things you needed to do in</p> <p>4 order to get out of the plant?</p> <p>5 A. Anywhere from six to seven minutes.</p> <p>6 Q. Your first job in QA you had you</p> <p>7 think you recall three breaks then, correct?</p> <p>8 A. Yes, I think that's it.</p> <p>9 Q. And did you have to do a similar</p> <p>10 washing and taking off the things to go on those</p> <p>11 breaks?</p> <p>12 A. We had to do the same thing.</p> <p>13 Q. How long did that take you?</p> <p>14 A. Anywhere from six to seven minutes.</p> <p>15 Q. And you did the reverse coming back?</p> <p>16 A. Yes.</p> <p>17 Q. And the same amount of time?</p> <p>18 A. Uh-huh.</p> <p>19 Q. And at the end of the day?</p> <p>20 A. Same.</p> <p>21 Q. Why did you leave CP after that first</p> <p>22 period of employment there?</p> <p>23 A. Another job offer.</p>  | <p style="text-align: right;">33</p> <p>1 time down when you stop and when you start back and</p> <p>2 all that.</p> <p>3 Q. When you were working QA, did you</p> <p>4 have to swipe in and swipe out at the end of each</p> <p>5 day?</p> <p>6 A. Yes.</p> <p>7 Q. Did you understand that those times</p> <p>8 weren't the times to which the company was going to</p> <p>9 compute your pay?</p> <p>10 A. No, I wasn't under that.</p> <p>11 Q. You thought that those were the</p> <p>12 times, is that what you're saying?</p> <p>13 A. Yes, I thought we was getting paid</p> <p>14 that.</p> <p>15 Q. So you thought you swiped the Master</p> <p>16 Card?</p> <p>17 A. Yes, I thought I was doing it.</p> <p>18 Q. What about when you worked at the</p> <p>19 cook plant?</p> <p>20 A. Same.</p> <p>21 Q. You thought that when you swiped in,</p> <p>22 you got paid for that one --</p> <p>23 A. Got paid for that from the time I</p>                                 |



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| <p style="text-align: right;">34</p> <p>1 swiped that in.</p> <p>2 Q. And what about evis?</p> <p>3 A. Same thing -- thought that when I</p> <p>4 swiped in, that I was getting paid for everything</p> <p>5 that I worked.</p> <p>6 Q. On any of these three jobs, did you</p> <p>7 ever complain to your supervisor about any problems</p> <p>8 with your pay?</p> <p>9 A. Well, a couple of times I complained</p> <p>10 about it, you know, because I was like well we work</p> <p>11 this many hours, this many hours, why our pay is</p> <p>12 not adding up, and they was like well, only thing</p> <p>13 we can tell you they taking out taxes or whatever,</p> <p>14 but they never went into detail of telling us why.</p> <p>15 Q. Which job is that?</p> <p>16 A. When I was working in the, not the</p> <p>17 QA, but the cook plant part.</p> <p>18 Q. The cook plant, when CP had it. Did</p> <p>19 you have any complaints about your pay when you</p> <p>20 worked in the evis room for two weeks in 2007?</p> <p>21 A. No, because I didn't really stay</p> <p>22 around.</p> <p>23 Q. What about when you worked QA back in</p> | <p style="text-align: right;">36</p> <p>1 time-and-a-half?</p> <p>2 A. No.</p> <p>3 Q. What about when you worked QA?</p> <p>4 A. I didn't do no overtime.</p> <p>5 Q. How much overtime did you do in the</p> <p>6 two weeks that you were working in evis?</p> <p>7 A. I didn't keep up with it, but I know</p> <p>8 we worked some overtime.</p> <p>9 Q. Did you complain?</p> <p>10 A. No, I said -- just complaining a</p> <p>11 couple of times to the line leader, but I didn't</p> <p>12 say anything to the supervisors.</p> <p>13 Q. Why not?</p> <p>14 A. I just -- I'm the type I'm not a</p> <p>15 troublemaker, so I mean I just didn't say</p> <p>16 anything. And then after I did I stay that long, I</p> <p>17 didn't make no big issue of it.</p> <p>18 Q. How long was the overtime that you</p> <p>19 recollect that you worked in the evis department</p> <p>20 during those two weeks in 2007?</p> <p>21 A. Lots of time we worked, I know maybe</p> <p>22 what, sometimes an hour or two over.</p> <p>23 Q. An hour or two over?</p> |
| <p style="text-align: right;">35</p> <p>1 2001?</p> <p>2 A. No. I was just assuming that I was</p> <p>3 getting paid what I was supposed to have been</p> <p>4 getting paid.</p> <p>5 Q. Did you ever work overtime on any of</p> <p>6 those three jobs?</p> <p>7 A. On evis.</p> <p>8 Q. Did you get paid time-and-a-half for</p> <p>9 overtime?</p> <p>10 A. No.</p> <p>11 Q. You didn't?</p> <p>12 A. No.</p> <p>13 Q. And how do you know you were working</p> <p>14 overtime?</p> <p>15 A. Because anything over 40 hours is</p> <p>16 supposed to have been time-and-a-half, but we</p> <p>17 wasn't getting paid for that. And also when we was</p> <p>18 in the cook plant, we was working Saturdays and</p> <p>19 some Sundays, and you couldn't tell it.</p> <p>20 Q. Saturday and Sunday work at the cook</p> <p>21 plant?</p> <p>22 A. Yes, we worked a couple of Sundays.</p> <p>23 Q. And you don't believe you were paid</p>  | <p style="text-align: right;">37</p> <p>1 A. Uh-huh, but I never did see it on the</p> <p>2 check or anything. I was thinking that we was</p> <p>3 getting paid for it, but I didn't see no big</p> <p>4 difference.</p> <p>5 Q. You only worked two weeks, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And you got two checks for each of</p> <p>8 those two weeks?</p> <p>9 A. Yes.</p> <p>10 Q. And with those checks did you get a</p> <p>11 stub that showed your hours and rate of pay?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall reviewing those?</p> <p>14 A. I don't recall -- I don't recall any</p> <p>15 overtime being on it.</p> <p>16 Q. You don't recall any overtime being</p> <p>17 shown on those stubs?</p> <p>18 A. No.</p> <p>19 Q. During any of these three jobs that</p> <p>20 you worked, were you ever disciplined for anything?</p> <p>21 A. No, I wasn't.</p> <p>22 MR. FRY: That's all I have.</p> <p>23 MR. STEENSLAND: Just a few.</p>  |

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| <p style="text-align: right;">38</p> <p>1</p> <p>2 EXAMINATION BY MR. STEENSLAND:</p> <p>3 Q. Ms. Reeves, both when you worked at</p> <p>4 the QA, the job with QA and with CP, as we were</p> <p>5 referring to it, and when you were working the evis</p> <p>6 much more recently, was one of the first things you</p> <p>7 did when you came in was have to sanitize your</p> <p>8 boots?</p> <p>9 A. Yes.</p> <p>10 Q. And you mentioned about, here with</p> <p>11 evis recently, I think you said you put your smocks</p> <p>12 in a barrel before leaving. Do you recall saying</p> <p>13 that?</p> <p>14 A. Yes.</p> <p>15 Q. By barrel, was it like a bin or</p> <p>16 something?</p> <p>17 A. It was a bin.</p> <p>18 Q. And before leaving, does that mean</p> <p>19 leaving for your shift?</p> <p>20 A. Leaving for the day.</p> <p>21 Q. Is that the last thing you do?</p> <p>22 A. The very last thing, yes.</p> <p>23 Q. When you showed up before you go on</p>   | <p style="text-align: right;">40</p> <p>1 sanitize everything.</p> <p>2 Q. If you didn't do it, what would be</p> <p>3 the repercussions?</p> <p>4 A. Probably get wrote up or in trouble,</p> <p>5 but I always did what I was supposed to have done.</p> <p>6 Q. Before your shift when you were</p> <p>7 leaving you line, before you could leave the</p> <p>8 production room, you again have to wash these</p> <p>9 things down?</p> <p>10 A. You have to wash them down, yes.</p> <p>11 Q. When you were at QA, did you ever</p> <p>12 have to take your smock home with you?</p> <p>13 A. During QA, no.</p> <p>14 Q. When you were leaving for your break</p> <p>15 when you were at evis and QA, how did you know you</p> <p>16 could leave for your break?</p> <p>17 A. Only way that I know that I could</p> <p>18 leave from a break is, like I said, when the</p> <p>19 peoples in front of me start leaving the line, and</p> <p>20 then they come on down, and I notice all of them</p> <p>21 leaving, and once it get to me and the chicken and</p> <p>22 all pass by, then that's when I can leave.</p> <p>23 Q. So when there's no more chicken</p> |
| <p style="text-align: right;">39</p> <p>1 the production floor in evis and when you were</p> <p>2 working with QA, did you have to wash or somehow</p> <p>3 sanitize or wash the gloves, apron?</p> <p>4 A. Yes.</p> <p>5 Q. Sleeves -- that equipment you were</p> <p>6 putting on?</p> <p>7 A. Yes.</p> <p>8 Q. And was that done at a wash station</p> <p>9 there?</p> <p>10 A. Yes, it was.</p> <p>11 Q. To begin your break, both when you</p> <p>12 were at QA and evis, did you have to wash this</p> <p>13 equipment again before you took it off?</p> <p>14 A. Yes, we sure did.</p> <p>15 Q. And when you were coming back from</p> <p>16 that break, again did you have to wash that</p> <p>17 equipment, sanitize your boots, same as before?</p> <p>18 A. Yes.</p> <p>19 Q. And that was for both breaks, did the</p> <p>20 same?</p> <p>21 A. Both breaks. If you leave off the</p> <p>22 line and try to go to the bathroom. You have to do</p> <p>23 it. Every time you leave or come back you had to</p> | <p style="text-align: right;">41</p> <p>1 coming, is that your signal?</p> <p>2 A. Yes.</p> <p>3 Q. When you're reporting back to the</p> <p>4 line at the end of your break, did everybody have</p> <p>5 to report at the same time?</p> <p>6 A. Yes.</p> <p>7 Q. You couldn't just wait until the</p> <p>8 chicken got to your spot and get there right before</p> <p>9 it got there?</p> <p>10 A. No, we all had to be on the line</p> <p>11 before the first bird come down.</p> <p>12 Q. Before the first bird came to the</p> <p>13 first person on the line?</p> <p>14 A. Yes, we had to be on the line.</p> <p>15 Q. And let's say you're not there before</p> <p>16 the first bird hits the line, but you get there</p> <p>17 before the bird gets to you. Would you be</p> <p>18 considered late?</p> <p>19 A. Yes.</p> <p>20 Q. What would happen to you in that</p> <p>21 scenario?</p> <p>22 A. Probably would get wrote up, but me I</p> <p>23 never got that far, so I don't know.</p>   |



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| <p>42</p> <p>1 Q. Planned ahead?</p> <p>2 A. Yes.</p> <p>3 MR. STEENSLAND: Nothing</p> <p>4 further. Thank you, Ms. Reeves.</p> <p>5 MR. FRY: Thank you.</p> <p>6 5:30 p.m.</p> <p>7 *****</p> <p>8 FURTHER DEPONENT SAITH NOT</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |  |
| <p>43</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |  |

**TAB 46**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF

MARCUS RICE

JOB NO. 1101-58505

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 23rd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of MARCUS RICE may be</p> <p>16 taken before Victoria M. Castillo, Commissioner, at</p> <p>17 WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 23rd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6</p> <p>5</p> <p>6 EXHIBITS: PAGE NUMBER:</p> <p>7 (No Exhibits Were Marked.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |

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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 4:08 p.m., MARCUS RICE, in the<br/> 4 above cause, for oral examination, whereupon the<br/> 5 following proceedings were had:<br/> 6<br/> 7 MARCUS RICE,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 EXAMINATION BY MR. FRY:<br/> 12 Q. Good afternoon, Mr. Rice. How are<br/> 13 you doing?<br/> 14 A. Fine.<br/> 15 Q. You were sitting in here when I took<br/> 16 Krista Oliver's deposition, correct?<br/> 17 A. Yes.<br/> 18 Q. And did you hear the instructions<br/> 19 that I gave her?<br/> 20 A. Yes, somewhat.<br/> 21 Q. Would you like me to give them to<br/> 22 you?<br/> 23 A. You can if you want.</p>   | <p style="text-align: right;">8</p> <p>1 A. First month, 31st day, '78.<br/> 2 Q. Do you currently work for Equity?<br/> 3 A. No.<br/> 4 Q. When did you work for Equity?<br/> 5 A. Actually from '98 to 2004.<br/> 6 Q. So you started at the Baker Hill<br/> 7 facility when CP owned it?<br/> 8 A. Yes.<br/> 9 Q. What was your first job at the plant?<br/> 10 A. Rehang.<br/> 11 Q. Rehang?<br/> 12 A. Yes.<br/> 13 Q. And what did that job entail?<br/> 14 A. Excuse me?<br/> 15 Q. What did you do in rehang?<br/> 16 A. Hang chickens.<br/> 17 Q. Were you in live hang?<br/> 18 A. No, that was in the debone area.<br/> 19 Q. Stuff that fell off?<br/> 20 A. That means you rehang the chicken.<br/> 21 They come from live hang, through the chiller -- it<br/> 22 comes through the process, you know what I'm<br/> 23 saying. It goes from live hang, to the evis room,</p> |
| <p style="text-align: right;">7</p> <p>1 Q. As I told Ms. Oliver, my name is Gary<br/> 2 Fry, and I'm one of the lawyers for the company<br/> 3 Equity Group Eufaula, and we have asked you here<br/> 4 today to put some questions to you concerning a<br/> 5 lawsuit which you and some other folks have brought<br/> 6 against the company. A deposition consists of me<br/> 7 asking you questions and you giving me the answers<br/> 8 and our court reporter taking down what we both<br/> 9 say. If you don't understand a question that I ask<br/> 10 you, please let me know and I will rephrase it<br/> 11 hopefully so you will understand it. If you don't<br/> 12 hear anything that I say, let me know and I will<br/> 13 repeat it. She can only take down one speaker at a<br/> 14 time, so we should try and avoid speaking at the<br/> 15 same time.<br/> 16 A. Okay.<br/> 17 Q. And finally, any response you give to<br/> 18 one of my questions, I would ask that it be verbal<br/> 19 as opposed to a nod or a shake of the head. Okay?<br/> 20 A. Okay.<br/> 21 Q. Where do you live?<br/> 22 A. Georgetown, Georgia.<br/> 23 Q. What is your date of birth?</p> | <p style="text-align: right;">9</p> <p>1 to the chilling room, to the rehang.<br/> 2 Q. So you got the birds after they went<br/> 3 through the chiller?<br/> 4 A. Right.<br/> 5 Q. And you rehung them on the line?<br/> 6 A. What you call shackles.<br/> 7 Q. How long were you in rehang?<br/> 8 A. Probably the whole time. I mean,<br/> 9 went from -- the whole time I was there.<br/> 10 Q. Right up through 2004?<br/> 11 A. Right.<br/> 12 Q. And that was in the debone<br/> 13 department?<br/> 14 A. Right.<br/> 15 Q. And is that the only job you ever had<br/> 16 in that plant?<br/> 17 A. Actually, I was a line leader, and I<br/> 18 had to drive the drive pallet jacks, and I had<br/> 19 different areas that I had to cover.<br/> 20 MR. STEENSLAND: I may have<br/> 21 missed that one. He said he left the plant in<br/> 22 '04?<br/> 23 MR. FRY: Yes.</p>       |

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| <p style="text-align: right;">10</p> <p>1 MR. STEENSLAND: Sorry about</p> <p>2 that.</p> <p>3 Q. (Mr. Fry) How soon after you started</p> <p>4 work at the plant did you become a line leader?</p> <p>5 A. Maybe about a year or so.</p> <p>6 Q. So you became a line leader in around</p> <p>7 1999 or 2000?</p> <p>8 A. Somewhat.</p> <p>9 Q. And were you a line leader in the</p> <p>10 debone line?</p> <p>11 A. No, I was the line leader of the</p> <p>12 rehang line.</p> <p>13 Q. And you indicated that you drove a</p> <p>14 pallet jack. Was that in connection with your job</p> <p>15 duties as a line leader in rehang?</p> <p>16 A. Right.</p> <p>17 Q. That was all part of what you did?</p> <p>18 A. Right.</p> <p>19 Q. Tell me everything that you did as a</p> <p>20 line leader in rehang.</p> <p>21 A. Well, I had to make sure that the</p> <p>22 other people was doing their job. I had to make</p> <p>23 sure that the wash area was rewashing the chicken,</p> | <p style="text-align: right;">12</p> <p>1 A. Excuse me?</p> <p>2 Q. You said you started at different</p> <p>3 times?</p> <p>4 A. Right. Sometimes I had to be in</p> <p>5 there later, and sometimes I had to be in there</p> <p>6 earlier. Because when I got there -- the shift was</p> <p>7 supposed to start at 7:30. Sometimes I got there</p> <p>8 earlier so I can set up all the departments that I</p> <p>9 had that I supposed to cover. So sometimes I</p> <p>10 started early, but I don't think I got paid for it</p> <p>11 though.</p> <p>12 Q. Well, how early would you come in?</p> <p>13 A. Well, if the shift started at 7:30, I</p> <p>14 usually be there like around seven o'clock.</p> <p>15 Q. You're telling me that you had to do</p> <p>16 certain job functions in order to prepare the</p> <p>17 rehang area for the start of production?</p> <p>18 A. Right.</p> <p>19 Q. And are you telling me that you</p> <p>20 weren't paid for those?</p> <p>21 A. No.</p> <p>22 Q. And is that part of your claim in</p> <p>23 this case?</p> |
| <p style="text-align: right;">11</p> <p>1 and I had to make sure the ice room kept up the</p> <p>2 ice, I had to make sure the back dock -- the trash</p> <p>3 that come from the rehang line was out. It was</p> <p>4 different areas.</p> <p>5 Q. Why did you leave Equity in 2004?</p> <p>6 A. Pointed out.</p> <p>7 Q. The attendance policy?</p> <p>8 A. Yes.</p> <p>9 Q. What shift did you work?</p> <p>10 A. First.</p> <p>11 Q. That was from 7:30 to 4:30?</p> <p>12 A. Supposed to be.</p> <p>13 Q. 7:30 a.m. to 4:30 p.m.?</p> <p>14 A. Supposed to.</p> <p>15 Q. You say it's supposed to. Why do you</p> <p>16 say that?</p> <p>17 A. Because most of the time I started at</p> <p>18 a different times.</p> <p>19 Q. What time did you start?</p> <p>20 A. At different times. I can't tell you</p> <p>21 this, that time. I don't know.</p> <p>22 Q. How much in advance of 7:30 did you</p> <p>23 start?</p>   | <p style="text-align: right;">13</p> <p>1 A. Right.</p> <p>2 Q. And those kinds of pre-shift set-up</p> <p>3 activities that you said, you only did those when</p> <p>4 you were a line leader, right?</p> <p>5 A. I did it before I turned to line</p> <p>6 leader.</p> <p>7 Q. Okay. How did you find out about</p> <p>8 this lawsuit?</p> <p>9 A. Through friends, relatives.</p> <p>10 Q. What did your friends and relatives</p> <p>11 tell you about it?</p> <p>12 A. What did they say -- well, they said</p> <p>13 that they had a lawsuit against the plant for all</p> <p>14 the hours that they worked for the plant, so I</p> <p>15 signed up for it.</p> <p>16 Q. What's your understanding of what</p> <p>17 you're claiming here?</p> <p>18 MR. STEENSLAND: Objection.</p> <p>19 A. For all the hours that I worked for</p> <p>20 the plant.</p> <p>21 Q. (Mr. Fry) Including the work you did</p> <p>22 --</p> <p>23 A. Including from the time that I</p>  |

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| <p style="text-align: right;">14</p> <p>1 started until the time that I ended -- that</p> <p>2 included breaks, before breaks, the time that I</p> <p>3 took the equipment off to the time I had to put it</p> <p>4 back on, and through the second break from the time</p> <p>5 I had to put -- take it off, put it back on, and to</p> <p>6 the time I had to leave the plant.</p> <p>7 Q. So what you're telling me is: Part</p> <p>8 of part claim is for the time you took to put on</p> <p>9 and take off the supplies, or PPE --</p> <p>10 A. The PPE.</p> <p>11 Q. That you wore, correct?</p> <p>12 MR. STEENSLAND: Objection.</p> <p>13 A. Right.</p> <p>14 Q. (Mr. Fry) And are you also telling</p> <p>15 me that you have additional claims for work you did</p> <p>16 for set-up?</p> <p>17 A. Right.</p> <p>18 Q. Do you believe that you performed</p> <p>19 certain activities after the production shift ended</p> <p>20 for which you are entitled?</p> <p>21 A. Right.</p> <p>22 Q. That's not related to dressing or</p> <p>23 non-dressing?</p>      | <p style="text-align: right;">16</p> <p>1 were scheduled to work 40 hours a week?</p> <p>2 A. Right.</p> <p>3 Q. Five days a week?</p> <p>4 A. Somewhat.</p> <p>5 Q. Were you in the Union?</p> <p>6 A. Not really. They just made you have</p> <p>7 -- it was -- I mean, they were taking out, so</p> <p>8 evidently you was in it. They were taking out for</p> <p>9 it, so evidently you was in it. I don't think I</p> <p>10 was in it.</p> <p>11 Q. You are telling me they deducted</p> <p>12 Union dues from your --</p> <p>13 A. Whether you wanted to be in it or</p> <p>14 not, so they still took it.</p> <p>15 Q. So I take you didn't occupy any</p> <p>16 position with the Union?</p> <p>17 A. No, I just protected myself.</p> <p>18 Q. And you never went to any Union</p> <p>19 meetings?</p> <p>20 A. No.</p> <p>21 Q. Have you ever attended any meetings</p> <p>22 of Equity workers that were called to discuss this</p> <p>23 lawsuit?</p> |
| <p style="text-align: right;">15</p> <p>1 A. All that included undressing because,</p> <p>2 see, at the end of the shift I had to make sure</p> <p>3 everything was clean and all my areas were clean</p> <p>4 and the back dock was -- all the trash taken out,</p> <p>5 and had to spray down. And after all that, I had</p> <p>6 to take off my PPE, wash them down, and wash off</p> <p>7 boots before I leave.</p> <p>8 Q. But you have two claims here -- one</p> <p>9 for putting on PPE and taking it off, and one for</p> <p>10 these pre-shift and post-shift activities you did</p> <p>11 in terms of cleaning up your area and getting your</p> <p>12 area ready for work. Is that what you are telling</p> <p>13 me?</p> <p>14 A. Yes, sir.</p> <p>15 Q. What was your rate of pay?</p> <p>16 A. \$8.90 an hour.</p> <p>17 Q. And that was as of when you pointed</p> <p>18 out?</p> <p>19 A. Right.</p> <p>20 Q. And who was your supervisor when you</p> <p>21 pointed out?</p> <p>22 A. Sampson Reeves.</p> <p>23 Q. Did you work 40 hours a week? You</p> | <p style="text-align: right;">17</p> <p>1 A. Yes.</p> <p>2 Q. And how many such meetings did you</p> <p>3 attend?</p> <p>4 A. One or two maybe.</p> <p>5 Q. When was the last one you attended?</p> <p>6 A. I don't know.</p> <p>7 Q. Where were these meetings?</p> <p>8 A. It was at one of these motels, as far</p> <p>9 as I can remember.</p> <p>10 Q. What happened at this meeting? What</p> <p>11 did you do there?</p> <p>12 A. I just sat and listened.</p> <p>13 Q. Pardon?</p> <p>14 A. Just sat and listened.</p> <p>15 Q. Who talked?</p> <p>16 A. I can't remember who talked.</p> <p>17 Q. Was it a lawyer?</p> <p>18 A. Right.</p> <p>19 Q. Was there anybody else in the room</p> <p>20 besides a lawyer and Equity employees?</p> <p>21 A. A bunch of people, just a bunch of</p> <p>22 people in there from --</p> <p>23 Q. Were they Equity employees?</p>   |



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| <p style="text-align: right;">18</p> <p>1 A. Yes.</p> <p>2 Q. Anybody else?</p> <p>3 A. Just far as I remember, yes.</p> <p>4 Q. At the time of that meeting, had you</p> <p>5 signed up for this lawsuit?</p> <p>6 A. Excuse me?</p> <p>7 Q. You signed a paper. Do you recall</p> <p>8 signing a paper to join this lawsuit?</p> <p>9 A. Right.</p> <p>10 Q. At the time of the meeting, had you</p> <p>11 signed that paper yet?</p> <p>12 A. Right.</p> <p>13 Q. Right what?</p> <p>14 A. I don't know. I signed up for it. I</p> <p>15 can't tell you the exact time when I signed up for</p> <p>16 it, whatever. I don't know that.</p> <p>17 Q. Okay. Tell me each of the items of</p> <p>18 PPE that you wore each morning when you went to</p> <p>19 work.</p> <p>20 A. Smock, hair net, beard net, sleeves,</p> <p>21 boots, gloves -- cotton gloves, rubber gloves --</p> <p>22 ear plugs. I had to have an apron.</p> <p>23 Q. Anything else?</p> | <p style="text-align: right;">20</p> <p>1 A. All of it.</p> <p>2 Q. The smock, the hair net, the beard</p> <p>3 net, the sleeves?</p> <p>4 A. Ear plugs.</p> <p>5 Q. Every single day you got new stuff?</p> <p>6 A. Yes, because I didn't keep the same</p> <p>7 thing.</p> <p>8 Q. And did you pick it up every day</p> <p>9 throughout the whole six years you worked there?</p> <p>10 A. Right.</p> <p>11 Q. Did you ever take any of the stuff</p> <p>12 home?</p> <p>13 A. Well, I took it home, but I didn't</p> <p>14 wear the same thing back. Always got new stuff.</p> <p>15 The apron that I used, I just threw it away. I</p> <p>16 didn't use the same thing. I just got new stuff.</p> <p>17 Every time I came in, and I went to the supply room</p> <p>18 and got new stuff.</p> <p>19 Q. I just want to make sure I'm</p> <p>20 understanding what you are telling me. Every</p> <p>21 single morning of every day that you worked there</p> <p>22 you went to the supply room, and you got all new</p> <p>23 PPE?</p> |
| <p style="text-align: right;">19</p> <p>1 A. That's it.</p> <p>2 Q. Was it your understanding that you</p> <p>3 were required to wear each of these items?</p> <p>4 A. They told me we had to wear them.</p> <p>5 Q. Did you get all of these items from</p> <p>6 the company?</p> <p>7 A. Right.</p> <p>8 Q. Could you wear any of these items</p> <p>9 from home?</p> <p>10 A. Well, at one point in time you could</p> <p>11 take them home.</p> <p>12 Q. What could you take home?</p> <p>13 A. You could take everything home.</p> <p>14 Q. Did that policy change at some point?</p> <p>15 A. It did. I don't know what time or</p> <p>16 when did it change. I don't know. I just did what</p> <p>17 I did.</p> <p>18 Q. Well, were there certain of these</p> <p>19 items that you picked up at the supply room on a</p> <p>20 daily basis?</p> <p>21 A. All of it.</p> <p>22 Q. You picked them all up on a daily</p> <p>23 basis?</p>               | <p style="text-align: right;">21</p> <p>1 A. Right.</p> <p>2 Q. At the end of the day, what would you</p> <p>3 do with what you wore that day?</p> <p>4 A. I'd take it home, but I just didn't</p> <p>5 wear it back.</p> <p>6 Q. And what did you do with it once you</p> <p>7 took it home?</p> <p>8 A. Threw it away.</p> <p>9 Q. You just threw it away?</p> <p>10 A. Right.</p> <p>11 Q. These items that you have identified</p> <p>12 for me of PPE, when did you put them on in the</p> <p>13 morning?</p> <p>14 A. Maybe when I -- when I got to the</p> <p>15 plant. After I went through the supply line -- and</p> <p>16 you had to wait because it would be so many people</p> <p>17 in the line, so whenever I got -- when it was my</p> <p>18 turn to get my stuff, that's when I put it on.</p> <p>19 Q. Let's start when you got to the</p> <p>20 plant. You say you arrived at the plant at</p> <p>21 7 a.m.?</p> <p>22 A. Yes, and you have to wait in line.</p> <p>23 Q. Where do you have to wait in line, in</p>  |

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| <p style="text-align: right;">22</p> <p>1 the building?</p> <p>2 A. It's in the hallway. It's in the</p> <p>3 building.</p> <p>4 Q. Did you drive to work?</p> <p>5 A. Right.</p> <p>6 Q. Did you have to clear security?</p> <p>7 A. You have to pass through the guard</p> <p>8 shack, and they have to check your badge and see</p> <p>9 it -- see did you have your badge. Once they see</p> <p>10 that you had your badge, then you can go on</p> <p>11 through.</p> <p>12 Q. They didn't search your car or</p> <p>13 anything?</p> <p>14 A. No, not unless you were suspicious or</p> <p>15 bringing a weapon or something like that.</p> <p>16 Sometimes they will now.</p> <p>17 Q. Did you have a sticker on your car?</p> <p>18 A. No.</p> <p>19 Q. You just flashed them your badge?</p> <p>20 A. Yes, sir.</p> <p>21 Q. At the end of the day could you just</p> <p>22 leave?</p> <p>23 A. At the end of the day of work?</p>                  | <p style="text-align: right;">24</p> <p>1 A. Right.</p> <p>2 Q. Then what did you do?</p> <p>3 A. You had to put it on.</p> <p>4 Q. In this PPE that you listed for me,</p> <p>5 did that include boots?</p> <p>6 A. Yes, that's protective.</p> <p>7 Q. Where did you put the stuff on?</p> <p>8 A. Actually, we were putting it on in</p> <p>9 the hallway. You used to put it on in the</p> <p>10 hallway. And when you put it on in the hallway,</p> <p>11 you walk through this door and the lady spray your</p> <p>12 hand with soap, and you get the soap, and you walk</p> <p>13 through the puddle, and you go to the wash station,</p> <p>14 and you have to wash it off before you touch the</p> <p>15 chicken or other people get on the line. You have</p> <p>16 to wait until everybody else do that.</p> <p>17 Q. Where in the plant did you put on</p> <p>18 your smock, your sleeves, your apron, those sort of</p> <p>19 things?</p> <p>20 A. In the hallway.</p> <p>21 Q. What hallway?</p> <p>22 A. The hallway before you entered the</p> <p>23 department of debone.</p> |
| <p style="text-align: right;">23</p> <p>1 Q. Yes.</p> <p>2 A. No -- well, after I got through with</p> <p>3 what I was supposed to do.</p> <p>4 Q. One you got in your car, you drove --</p> <p>5 A. You had to go back through the guard</p> <p>6 shack.</p> <p>7 Q. And did you just drive through?</p> <p>8 A. Sometimes. And sometimes they have</p> <p>9 like a weapon check, and you have to wait, pull</p> <p>10 over for a couple of minutes, and they check, and</p> <p>11 then you go.</p> <p>12 Q. How often did that happen?</p> <p>13 A. Maybe every month or so, whenever you</p> <p>14 suspicious or something.</p> <p>15 Q. You got to the plant around 7 a.m.,</p> <p>16 you went to the supply shack?</p> <p>17 A. Right.</p> <p>18 Q. And you say you waited in line?</p> <p>19 A. Right.</p> <p>20 Q. How long did you wait in line?</p> <p>21 A. I don't know.</p> <p>22 Q. You picked up all of your PPE at that</p> <p>23 point?</p> | <p style="text-align: right;">25</p> <p>1 Q. The hallway -- are you talking about</p> <p>2 the hallway that separates the break room from the</p> <p>3 production floor?</p> <p>4 A. Right.</p> <p>5 Q. That is where you put your stuff on?</p> <p>6 A. Right.</p> <p>7 Q. And you put that stuff on there in</p> <p>8 that hallway right after you picked it up at supply</p> <p>9 every morning?</p> <p>10 A. Right.</p> <p>11 Q. And then you proceeded into the</p> <p>12 production floor?</p> <p>13 A. Right.</p> <p>14 Q. And you had to pass through that foot</p> <p>15 bath?</p> <p>16 A. Right.</p> <p>17 Q. And then what happened?</p> <p>18 A. You got to go to the wash station.</p> <p>19 The soap in your hand, you got to go to the wash</p> <p>20 station and wipe all that stuff off.</p> <p>21 Q. How long did it take you to put this</p> <p>22 stuff on in the hallway?</p> <p>23 A. I don't know, man. I ain't really</p>   |

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| <p style="text-align: right;">26</p> <p>1 timed that. I just put it on.</p> <p>2 Q. It doesn't take too long to put a</p> <p>3 smock on, does it?</p> <p>4 A. Probably not.</p> <p>5 Q. It's not too --</p> <p>6 A. I just don't know the time.</p> <p>7 Q. It doesn't take too long to tie an</p> <p>8 apron on, does it?</p> <p>9 A. I wouldn't know the exact time</p> <p>10 because I didn't time it.</p> <p>11 Q. You have no idea how long it took</p> <p>12 you?</p> <p>13 A. No, I just put it on.</p> <p>14 Q. Then you went in and washed off?</p> <p>15 A. Yes, you have to wash it off.</p> <p>16 Q. And then did you proceed to do these</p> <p>17 pre-shift set-up activities that you described for</p> <p>18 me?</p> <p>19 A. Right.</p> <p>20 Q. And then your shift started at 7:30?</p> <p>21 A. Shift supposed to start at 7:30.</p> <p>22 Q. What would you do on those days when</p> <p>23 Sanitation was still in there cleaning?</p>          | <p style="text-align: right;">28</p> <p>1 Q. How often did that happen?</p> <p>2 A. Not often.</p> <p>3 Q. Well, you were line leader for about</p> <p>4 six years, right?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Excuse me -- you were a line leader</p> <p>7 for about five years, right?</p> <p>8 A. Right -- well, right, you can say</p> <p>9 that.</p> <p>10 Q. From 1999 to --</p> <p>11 A. '98 to all the way to 2004.</p> <p>12 Q. So you were line leader all those</p> <p>13 years?</p> <p>14 A. Well, not the first couple of years.</p> <p>15 Q. For those years that you were line</p> <p>16 leader, on an average week how often could you go</p> <p>17 on break?</p> <p>18 A. Just whenever they told me I could.</p> <p>19 Q. Can you estimate for me how often you</p> <p>20 could take a break?</p> <p>21 A. No.</p> <p>22 Q. So you have no idea how many days you</p> <p>23 did not take a break?</p>  |
| <p style="text-align: right;">27</p> <p>1 A. You have to wait until Sanitation</p> <p>2 comes out. They won't let you in there.</p> <p>3 Q. How many breaks did you get in</p> <p>4 rehang?</p> <p>5 A. I was supposed to get two, but most</p> <p>6 of the time I didn't take one.</p> <p>7 Q. Why not?</p> <p>8 A. Because I couldn't.</p> <p>9 Q. Pardon?</p> <p>10 A. I couldn't.</p> <p>11 Q. Why couldn't you take your breaks?</p> <p>12 A. I couldn't take one until I was told</p> <p>13 to take one because I was the line leader on the</p> <p>14 floor, and I had to maintain the floor until</p> <p>15 somebody told me I had to take a break. Most of</p> <p>16 the time I didn't take one.</p> <p>17 Q. And is that part of your claim?</p> <p>18 A. Right.</p> <p>19 Q. That you didn't get breaks at all?</p> <p>20 A. Right.</p> <p>21 Q. How often could you take a break?</p> <p>22 A. Just whenever they told me I could</p> <p>23 take one.</p> | <p style="text-align: right;">29</p> <p>1 A. No, I don't have no idea. I couldn't</p> <p>2 tell you.</p> <p>3 Q. How did the company keep track of</p> <p>4 your hours as a line leader for purposes of your</p> <p>5 pay?</p> <p>6 A. Well, a Master Card, the</p> <p>7 superintendent swipe the card.</p> <p>8 Q. To your knowledge, were you given any</p> <p>9 pay for any of these set-up or post-shift</p> <p>10 activities?</p> <p>11 A. No.</p> <p>12 Q. You were paid strictly on the basis</p> <p>13 of MasterCard time. Is that your understanding?</p> <p>14 A. It's just whenever. I don't know.</p> <p>15 All I know is I swiped my attendance card, and</p> <p>16 that's it. And how I get paid, I mean, I don't</p> <p>17 know. They do the time sheets and stuff. I don't</p> <p>18 see none of those, so I wouldn't know.</p> <p>19 Q. You knew there was a difference</p> <p>20 between the card that you swiped in on, your</p> <p>21 attendance card, and the Master Card?</p> <p>22 A. Somewhat. Well, actually I know that</p> <p>23 my card that I swipe supposed to just swipe me in,</p> |

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| <p style="text-align: right;">30</p> <p>1 and I guess that's the same thing as theirs, I</p> <p>2 guess. I don't know.</p> <p>3 Q. Did you ever complain to anyone that</p> <p>4 you weren't getting your breaks?</p> <p>5 A. Yes.</p> <p>6 Q. Who did you complain to?</p> <p>7 A. Supervisor.</p> <p>8 Q. That's Sampson Reeves?</p> <p>9 A. Right.</p> <p>10 Q. And what did he tell you?</p> <p>11 A. He told me I can take a break once I</p> <p>12 get everything -- once everything is in order. So</p> <p>13 if all that stuff wasn't in order, then I couldn't</p> <p>14 take a break until it was, and so most of the time</p> <p>15 I didn't take one.</p> <p>16 Q. Did you ever complain to your Union</p> <p>17 representative that you weren't getting your</p> <p>18 breaks?</p> <p>19 A. Well, I mentioned it to one, but</p> <p>20 really it didn't help none.</p> <p>21 Q. Who did you mention it to?</p> <p>22 A. It's been a while, man. I don't even</p> <p>23 remember.</p> | <p style="text-align: right;">32</p> <p>1 word of advice, and that was it.</p> <p>2 Q. What did she tell you?</p> <p>3 A. That she will get with me, and they</p> <p>4 will handle it, but it never got handled.</p> <p>5 Q. Pardon?</p> <p>6 A. She said she would handle it, but it</p> <p>7 never got handled.</p> <p>8 Q. Did you ever fill out a grievance</p> <p>9 form?</p> <p>10 A. No.</p> <p>11 Q. Why not?</p> <p>12 A. Because they never took it to us,</p> <p>13 they never got that far.</p> <p>14 Q. Couldn't you have filled out a</p> <p>15 grievance and submitted it on your own?</p> <p>16 A. Yes, once it got -- if they gave you</p> <p>17 the form.</p> <p>18 Q. Did you ever ask for the form?</p> <p>19 A. No, because I mean -- no.</p> <p>20 Q. Why not?</p> <p>21 A. I don't know.</p> <p>22 Q. How many people did you have working</p> <p>23 for you in rehang when you were a line leader?</p>   |
| <p style="text-align: right;">31</p> <p>1 Q. Does the name Jackie Davis ring a</p> <p>2 bell?</p> <p>3 A. No.</p> <p>4 Q. How about the woman with the last</p> <p>5 name Green?</p> <p>6 A. No.</p> <p>7 Q. Is it your testimony that you recall</p> <p>8 complaining to --</p> <p>9 MR. STEENSLAND: Wait.</p> <p>10 THE DEPONENT: Okay.</p> <p>11 Q. (Mr. Fry) Is it your testimony that</p> <p>12 you do recall making a complaint to your Union</p> <p>13 representative that you weren't getting your</p> <p>14 breaks?</p> <p>15 A. One of the shop stewards, Ms. Johanna</p> <p>16 Bussey, I remember her, but the rest I don't</p> <p>17 remember.</p> <p>18 Q. Did you complain to Johanna?</p> <p>19 A. Right.</p> <p>20 Q. And do you recall when that was?</p> <p>21 A. No.</p> <p>22 Q. And did she ever get back to you?</p> <p>23 A. Some of the time. She just gave me a</p>  | <p style="text-align: right;">33</p> <p>1 A. Maybe about 20 people.</p> <p>2 Q. And how many breaks did they get?</p> <p>3 A. Supposed to get two. I don't know.</p> <p>4 Q. Did they take their breaks?</p> <p>5 A. I guess.</p> <p>6 Q. You were their line leader, right?</p> <p>7 A. Right.</p> <p>8 Q. And was it up to you to tell them</p> <p>9 when to go on breaks?</p> <p>10 A. Not exactly. It was up to the</p> <p>11 supervisor to tell them whether they can go on</p> <p>12 break or not.</p> <p>13 Q. And how long were their breaks?</p> <p>14 A. I guess they supposed to get 30</p> <p>15 minutes. They supposed to get 30 minutes, and it</p> <p>16 was like one 30 and one 20 when I was working</p> <p>17 there.</p> <p>18 Q. And what did the people that were</p> <p>19 under you in rehang, what did they have to do to go</p> <p>20 on break?</p> <p>21 A. What did they have to do?</p> <p>22 Q. Yes.</p> <p>23 A. When the supervisor said they can go</p> |

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|---|--|
| <p style="text-align: right;">34</p> <p>1 to break, they go to break. They have to -- first</p> <p>2 they have to take off the stuff at the wash station</p> <p>3 area, hang the smock up, hang the apron up, take</p> <p>4 the gloves off, take the -- all the other stuff</p> <p>5 off, and just go to break.</p> <p>6 Q. And how long did it take them to do</p> <p>7 that?</p> <p>8 A. I don't know.</p> <p>9 Q. Did they all go the break at once?</p> <p>10 A. Right.</p> <p>11 Q. Did they all come back at once?</p> <p>12 A. Supposed to.</p> <p>13 Q. Did they?</p> <p>14 A. I wouldn't know because I had to do</p> <p>15 my little stuff, and the supervisors stayed there</p> <p>16 up front, so I wouldn't know. I was in different</p> <p>17 areas. I had different areas I had to go make</p> <p>18 sure.</p> <p>19 Q. Did you keep track of the hours that</p> <p>20 you worked for which you think you are owed pay?</p> <p>21 A. No.</p> <p>22 Q. Do you have any idea?</p> <p>23 A. No.</p> | <p style="text-align: right;">36</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |
| <p style="text-align: right;">35</p> <p>1 Q. Besides pointing out, were you ever</p> <p>2 disciplined when you worked there?</p> <p>3 A. Probably wrote up one time.</p> <p>4 Q. What for?</p> <p>5 A. Me and a supervisor got into it.</p> <p>6 MR. FRY: I don't have any other</p> <p>7 questions.</p> <p>8 MR. STEENSLAND: I don't have any</p> <p>9 questions either.</p> <p>10 MR. FRY: Thank you very much.</p> <p>11 4:41 p.m.</p> <p>12 *****</p> <p>13 FURTHER DEPONENT SAITH NOT</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |  |

**TAB 47**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
SAMUEL A. SHABAZZ

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of SAMUEL A. SHABAZZ</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 23rd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. SMITH                   6-64</p> <p>4</p> <p>5   EXHIBITS:</p> <p>6   (No exhibits were</p> <p>7   submitted to said deposition.)</p> <p>8</p> <p>9   Reporter's Certificate           65</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2   or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4   that the notice of filing of the deposition by</p> <p>5   the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. P. MARK PETRO</p> <p>5       SCHREIBER &amp; PETRO, PC</p> <p>6       ATTORNEYS AT LAW</p> <p>7       Two Metroplex Drive</p> <p>8       Suite 250</p> <p>9       Birmingham, Alabama 35209</p> <p>10</p> <p>11   ON BEHALF OF THE DEFENDANT:</p> <p>12       MR. JOEL P. SMITH, JR.</p> <p>13       WILLIAMS, POTTHOFF,</p> <p>14       WILLIAMS &amp; SMITH, L.L.C.</p> <p>15       ATTORNEYS AT LAW</p> <p>16       125 South Orange Avenue</p> <p>17       Eufaula, Alabama 36027</p> <p>18       (334) 687-5834</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22       I, CYNTHIA M. NOAKES, a Certified</p> <p>23   Court Reporter of Eufaula, Alabama, acting as</p> |

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| <p style="text-align: right;">6</p> <p>1 Commissioner, certify that on this date, as</p> <p>2 provided by the Alabama Rules of Civil Procedure</p> <p>3 and the foregoing stipulation of counsel, there</p> <p>4 came before me at the Law Offices of WILLIAMS,</p> <p>5 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>6 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>7 9:30 a.m., SAMUEL A. SHABAZZ, witness in the above</p> <p>8 cause, for oral examination, whereupon the</p> <p>9 following proceedings were had:</p> <p>10</p> <p>11 SAMUEL A. SHABAZZ,</p> <p>12 being first duly sworn, was examined and</p> <p>13 testified as follows:</p> <p>14</p> <p>15 THE COURT REPORTER: Usual</p> <p>16 stipulations?</p> <p>17 MR. PETRO: Yes.</p> <p>18 MR. SMITH: Yes.</p> <p>19</p> <p>20 EXAMINATION</p> <p>21 BY MR. SMITH:</p> <p>22 Q. Mr. Shabazz, we met earlier. I'm Joel Smith</p> <p>23 and I represent Equity Group Eufaula Division in</p>   | <p style="text-align: right;">8</p> <p>1 bridge, right?</p> <p>2 A. Right.</p> <p>3 Q. Okay. Who is your boss there?</p> <p>4 A. T.J. Calloway.</p> <p>5 Q. Is that Mr. Barnett's company?</p> <p>6 A. Right.</p> <p>7 Q. So Mr. Calloway is your supervisor?</p> <p>8 A. Supervisor.</p> <p>9 Q. Okay. What do you do there?</p> <p>10 A. I feed the dryer.</p> <p>11 Q. Feed the dryer? Does that involve you</p> <p>12 putting wood chips in the dryer?</p> <p>13 A. No. Veneer sheets.</p> <p>14 Q. Okay. When they're already made, you put</p> <p>15 them in the dryer?</p> <p>16 A. Right.</p> <p>17 Q. Okay. Where did you work before</p> <p>18 Chattahoochee Veneer? Was it Equity Group?</p> <p>19 A. No. I think it was City of Eufaula.</p> <p>20 Q. What did you do for the City?</p> <p>21 A. Maintenance. Lawn maintenance.</p> <p>22 Q. All right. How long were you there?</p> <p>23 A. About eight months.</p>              |
| <p style="text-align: right;">7</p> <p>1 this case that you are a part of. I'm just going</p> <p>2 to ask you a series of questions relating to the</p> <p>3 claims made in the lawsuit.</p> <p>4 Just a couple of ground rules. If you don't</p> <p>5 understand my question, just ask me to rephrase it</p> <p>6 or repeat it, and I'll be happy to.</p> <p>7 And the other one is to speak out your</p> <p>8 answer so Cindy can get it down. Instead of</p> <p>9 nodding or shaking your head, make sure you say</p> <p>10 yes or no. Okay?</p> <p>11 A. Okay.</p> <p>12 Q. All right. Let me get you to state your</p> <p>13 name, please.</p> <p>14 A. Samuel Shabazz.</p> <p>15 Q. And your home address?</p> <p>16 A. 99 Cool Branch, Georgetown, Georgia.</p> <p>17 Q. How long have you been there?</p> <p>18 A. Eight years.</p> <p>19 Q. Okay. And your date of birth?</p> <p>20 A. 10/17/52.</p> <p>21 Q. And your current employment?</p> <p>22 A. Chattahoochee Veneer.</p> <p>23 Q. That's down there on 431, right over the</p> | <p style="text-align: right;">9</p> <p>1 Q. And who was your supervisor there at the</p> <p>2 City?</p> <p>3 A. I think it was Melvin Tillman.</p> <p>4 Q. Okay. And before the City, did you work for</p> <p>5 Equity Group?</p> <p>6 A. No. I worked with Whispering Pines.</p> <p>7 Q. In Georgetown?</p> <p>8 A. Right.</p> <p>9 Q. Over on the lake in Georgetown?</p> <p>10 A. Right.</p> <p>11 Q. What did you do for them?</p> <p>12 A. Lawn maintenance.</p> <p>13 Q. What about before that, where did you work?</p> <p>14 A. I worked at HKC, Hartz Vending Machine.</p> <p>15 Q. For Mr. John Bush and his kids down there?</p> <p>16 A. Right.</p> <p>17 Q. What did you do for them?</p> <p>18 A. Putting snacks and stuff in machines.</p> <p>19 Q. All right. And what about before that?</p> <p>20 A. Anderson OMO.</p> <p>21 Q. What is that?</p> <p>22 A. Anderson Construction.</p> <p>23 Q. Oh, yeah. Jerry Anderson?</p> |

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| <p style="text-align: right;">10</p> <p>1 A. Right. Anderson OMO.</p> <p>2 Q. What does OMO mean?</p> <p>3 A. Something to do with the Army.</p> <p>4 Q. Were you doing construction projects for the</p> <p>5 Army?</p> <p>6 A. No. I was maintaining the parks and stuff.</p> <p>7 Q. Oh, okay. So they had a contract to do the</p> <p>8 lawn maintenance for the Army?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. I'm really trying to get back to your</p> <p>11 chicken plant days.</p> <p>12 When did you work for the chicken plant?</p> <p>13 A. Back around the year 2000.</p> <p>14 Q. Okay. So the year 2000. It was CP back</p> <p>15 then, right?</p> <p>16 A. And it changed over to Keystone.</p> <p>17 Q. Right. Tell me the years that you worked</p> <p>18 for the chicken plant.</p> <p>19 A. All right. I first started off in the year</p> <p>20 2000 up to the year 2001. I left, went back to</p> <p>21 Florida, came back to the chicken plant, stayed</p> <p>22 about a year.</p> <p>23 Q. Wait a second. How long did you stay back</p> | <p style="text-align: right;">12</p> <p>1 You worked six months in 2002, and then you</p> <p>2 left and you were six months at Anderson. Did</p> <p>3 that get you to 2003 when you came back to the</p> <p>4 chicken plant, or was it still 2002?</p> <p>5 A. It was about 2003 or close to 2004.</p> <p>6 Q. Was it CP?</p> <p>7 A. It was Keystone.</p> <p>8 Q. It was Keystone when you came back?</p> <p>9 A. Right.</p> <p>10 Q. So that would make it 2004, I believe; is</p> <p>11 that right?</p> <p>12 A. Something like that.</p> <p>13 Q. Okay. So when you were hired back for the</p> <p>14 third time at the chicken plant, you're certain it</p> <p>15 was Keystone or Equity Group?</p> <p>16 A. Yes.</p> <p>17 Q. Tell me what you were hired in to do there.</p> <p>18 A. I was working in storage, a forklifter.</p> <p>19 Q. Okay. You drove a forklift?</p> <p>20 A. No. It was a hand forklift, one of them</p> <p>21 kind that you've got to...(demonstrating). It</p> <p>22 wasn't like no automobile.</p> <p>23 Q. Okay. So is it like a pallet jack?</p> |
| <p style="text-align: right;">11</p> <p>1 in Florida?</p> <p>2 A. About eight months.</p> <p>3 Q. So did you come back -- you went down to</p> <p>4 Florida in 2001. Was it 2001 or 2002 when you</p> <p>5 came back?</p> <p>6 A. 2002.</p> <p>7 Q. Okay. And you went to work. It was CP</p> <p>8 then, right?</p> <p>9 A. Right.</p> <p>10 Q. Okay. And how long were you there?</p> <p>11 A. I'm trying to think. Six months.</p> <p>12 Q. Okay. What were you doing during that</p> <p>13 period of time at the plant?</p> <p>14 A. At that time then, I was working doing</p> <p>15 janitorial work.</p> <p>16 Q. Janitorial?</p> <p>17 A. Janitorial.</p> <p>18 Q. Okay. All right. And that was a six-month</p> <p>19 period in 2002?</p> <p>20 A. Right. I left, went back to Anderson six</p> <p>21 months, left, came back to the chicken plant.</p> <p>22 Q. All right. So let me see if I can figure</p> <p>23 all this up.</p>   | <p style="text-align: right;">13</p> <p>1 A. Yeah, it was like a pallet jack.</p> <p>2 Q. Okay. You didn't have to have any kind of</p> <p>3 license to drive it or anything?</p> <p>4 A. No.</p> <p>5 Q. It was one that I could do if you showed me</p> <p>6 how to do it?</p> <p>7 A. Right.</p> <p>8 Q. Okay. So what department was that job in or</p> <p>9 what plant were you in?</p> <p>10 A. Cold storage.</p> <p>11 Q. Okay. So is that in the first processing</p> <p>12 plant or the cook plant?</p> <p>13 A. First processing.</p> <p>14 Q. Okay. And I take it you're obviously no</p> <p>15 longer with Equity Group. How long were you there</p> <p>16 after you came back in 2004 working on the pallet</p> <p>17 jack? How long did you stay on that job?</p> <p>18 A. I don't know.</p> <p>19 Q. Okay. Do you have an estimate of how long</p> <p>20 you were there?</p> <p>21 A. Nope.</p> <p>22 Q. Was it more than six months?</p> <p>23 A. I don't know.</p>   |

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| <p style="text-align: right;">14</p> <p>1 Q. Okay. Was it more than a year?</p> <p>2 A. It wasn't no year.</p> <p>3 Q. So we know it's less than a year. Am I</p> <p>4 right there?</p> <p>5 A. It was less than a year.</p> <p>6 Q. Okay. So less than a year. Did you do the</p> <p>7 same job the whole time?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And what shift were you on?</p> <p>10 A. Third shift.</p> <p>11 Q. Was the plant running when you were working?</p> <p>12 A. Plant was running.</p> <p>13 Q. Plant was running?</p> <p>14 A. Right.</p> <p>15 Q. So what were your hours that you were</p> <p>16 supposed to be there?</p> <p>17 A. From twelve to eight.</p> <p>18 Q. 12 a.m. to 8 a.m.?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Tell me, if you would -- I know</p> <p>21 you've said you ran sort of a forklift. Tell me</p> <p>22 exactly what you were doing though. I mean, as</p> <p>23 far as day to day. What were you lifting with the</p>                              | <p style="text-align: right;">16</p> <p>1 A. Not that I can recall.</p> <p>2 Q. Okay. Who was your supervisor?</p> <p>3 A. I don't know. I don't remember his name.</p> <p>4 Q. Can you describe him?</p> <p>5 A. All I know, they called him Jabo or</p> <p>6 something like that.</p> <p>7 Q. Banjo?</p> <p>8 A. Jabo. They called him Jabo.</p> <p>9 Q. What did he look like?</p> <p>10 A. Heavysset.</p> <p>11 Q. How old or how young? What was his</p> <p>12 approximate age?</p> <p>13 A. 45 to 50 years old.</p> <p>14 Q. Okay. White or black or Hispanic?</p> <p>15 A. Black.</p> <p>16 Q. All right. Jabo. Was he still there when</p> <p>17 you left?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. What was your pay rate?</p> <p>20 A. I don't want to speculate. I think about</p> <p>21 \$6, I think; I'm not sure.</p> <p>22 Q. You think it was \$6 an hour?</p> <p>23 A. I think; I'm not sure.</p>  |
| <p style="text-align: right;">15</p> <p>1 forklift and moving? What was your job?</p> <p>2 A. Load trucks.</p> <p>3 Q. So you were loading trucks with frozen</p> <p>4 chicken or was it fresh? Was it frozen or was it</p> <p>5 just chilled?</p> <p>6 A. It was frozen.</p> <p>7 Q. Okay. So your job, you worked back between</p> <p>8 the loading dock and the cold storage?</p> <p>9 A. That's right.</p> <p>10 Q. And you ran -- I'm not trying to put words</p> <p>11 in your mouth; I'm just trying to understand what</p> <p>12 you did.</p> <p>13 You would go back and forth between the cold</p> <p>14 storage and the trucks on the loading dock?</p> <p>15 A. Yes.</p> <p>16 Q. What else did you do?</p> <p>17 A. Inventory.</p> <p>18 Q. Okay. What did that involve?</p> <p>19 A. Make sure that everything was put up and</p> <p>20 numbered and dated.</p> <p>21 Q. Did you have to write down records on that?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Anything else you did?</p> | <p style="text-align: right;">17</p> <p>1 Q. And I'm talking about when Equity Group had</p> <p>2 it.</p> <p>3 A. Yeah.</p> <p>4 Q. And did you get other benefits, like health</p> <p>5 insurance?</p> <p>6 A. No.</p> <p>7 Q. How many hours per week would you work</p> <p>8 typically?</p> <p>9 A. Forty.</p> <p>10 Q. 40-hour week? Okay. Were there certain</p> <p>11 days you didn't work? I mean, were you on a</p> <p>12 straight Monday-through-Friday, or did you overlap</p> <p>13 into Saturdays?</p> <p>14 A. We'd overlap into Saturdays and be off on</p> <p>15 Sundays.</p> <p>16 Q. How long were you working on Saturdays?</p> <p>17 A. About two hours.</p> <p>18 Q. Okay. And I guess your shift would start --</p> <p>19 I mean, we're dealing with the night shift here.</p> <p>20 So your shift would start Saturday morning at</p> <p>21 midnight, I guess, Friday night to Saturday</p> <p>22 morning would be a normal work day?</p> <p>23 A. Right.</p> |

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| <p style="text-align: right;">18</p> <p>1 Q. Was that an eight-hour shift there?</p> <p>2 A. (No response.)</p> <p>3 Q. What day would your work week start on? on a</p> <p>4 Monday?</p> <p>5 A. On a Tuesday.</p> <p>6 Q. Would you have Monday off?</p> <p>7 A. Have Monday off.</p> <p>8 Q. Okay. So you would go Tuesday night,</p> <p>9 Wednesday night, Thursday night, and Friday night?</p> <p>10 A. Right.</p> <p>11 Q. And then would you work Saturday nights too?</p> <p>12 A. No.</p> <p>13 Q. But you would go -- 40 hours was your</p> <p>14 typical week?</p> <p>15 A. Right, 40 hours.</p> <p>16 Q. Did you ever have occasions to work more</p> <p>17 than 40 hours?</p> <p>18 A. No.</p> <p>19 Q. Did you ever have less than 40, where y'all</p> <p>20 were scaled back?</p> <p>21 A. Yes.</p> <p>22 Q. How did that work? How often was that?</p> <p>23 A. The days I don't go to work.</p>  | <p style="text-align: right;">20</p> <p>1 A. Down here at Dawson. It's like a mill</p> <p>2 company.</p> <p>3 Q. In Dawson, Georgia?</p> <p>4 A. Right. What's the name of that place? I</p> <p>5 can't think of the name right now.</p> <p>6 Q. You took a job in Dawson, Georgia. Did you</p> <p>7 leave Equity Group on your own or did they</p> <p>8 terminate you?</p> <p>9 A. I left on my own.</p> <p>10 Q. You went in and told them, "I got a better</p> <p>11 job; I don't want this job anymore"?</p> <p>12 A. Right.</p> <p>13 Q. And your best estimate you can give me on</p> <p>14 how long you worked at Equity Group was that it</p> <p>15 was less than a year?</p> <p>16 A. Less than a year.</p> <p>17 Q. Was it more than a month?</p> <p>18 A. Yeah.</p> <p>19 Q. More than two months?</p> <p>20 A. Yeah.</p> <p>21 Q. How about three?</p> <p>22 A. Let's round it off like this: I think right</p> <p>23 at four months.</p>   |
| <p style="text-align: right;">19</p> <p>1 Q. Right. I mean, you could have personal days</p> <p>2 or sick leave or something like that; is that</p> <p>3 right?</p> <p>4 A. Right.</p> <p>5 Q. I'm talking about days where the company</p> <p>6 said, "We're not working today." For whatever</p> <p>7 reason. Maybe the plant's down or something like</p> <p>8 that. Did you ever have those types of weeks?</p> <p>9 A. No.</p> <p>10 Q. Did you have vacation days?</p> <p>11 A. No.</p> <p>12 Q. Were there days where you just didn't go to</p> <p>13 work?</p> <p>14 A. Yeah.</p> <p>15 Q. How many of those --</p> <p>16 A. It varied.</p> <p>17 Q. Okay. I mean, did it happen on a regular</p> <p>18 basis?</p> <p>19 A. No.</p> <p>20 Q. All right. Why did you leave Equity Group?</p> <p>21 A. I found a better job.</p> <p>22 Q. Okay. And tell me where you went after</p> <p>23 Equity Group.</p> | <p style="text-align: right;">21</p> <p>1 Q. Okay. Now, you understand that you are a</p> <p>2 plaintiff in a lawsuit that a number of people</p> <p>3 have brought against Equity Group?</p> <p>4 A. Yes.</p> <p>5 Q. How did you first learn about the lawsuit?</p> <p>6 A. A friend.</p> <p>7 Q. Who was that?</p> <p>8 A. Clifford Jones.</p> <p>9 Q. Is he a plaintiff in the case?</p> <p>10 A. I don't know.</p> <p>11 Q. He just told you about it?</p> <p>12 A. Yes.</p> <p>13 Q. Was he employed out there at Equity Group?</p> <p>14 A. Yes.</p> <p>15 Q. And do you remember when you got into the</p> <p>16 lawsuit, when you joined it?</p> <p>17 A. I think about a year ago.</p> <p>18 Q. Okay. What is your understanding of the</p> <p>19 claims that are being made in the lawsuit?</p> <p>20 A. For not getting paid for the work we did.</p> <p>21 Q. Not getting paid for the work you did?</p> <p>22 A. Right.</p> <p>23 Q. What specific work did you not get paid for?</p> |

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| <p style="text-align: right;">22</p> <p>1 A. Such as putting our smocks on, boots on,<br/>2 goggles, so forth and so forth.<br/>3 Q. So smocks, boots, goggles?<br/>4 A. Right.<br/>5 Q. And then what did you mean by "so forth and<br/>6 so forth"?<br/>7 A. Anything else that was required for us to<br/>8 put on.<br/>9 Q. What would those items be?<br/>10 A. Such as gloves.<br/>11 Q. Okay.<br/>12 A. That's about it.<br/>13 Q. Okay. And how did you get the understanding<br/>14 that that's what was being claimed in the lawsuit?<br/>15 Did it come from your friend or how did that come<br/>16 about?<br/>17 A. That came about because when I inquired to<br/>18 my supervisor why we had to come in so early to<br/>19 get prepared for work and not get paid for it.<br/>20 Q. Who was that supervisor?<br/>21 A. Jabo.<br/>22 Q. What was his response?<br/>23 A. He said that it's an ongoing trend.</p>          | <p style="text-align: right;">24</p> <p>1 Q. You would keep them at the plant?<br/>2 A. Right.<br/>3 Q. And where was your locker?<br/>4 A. In the break room.<br/>5 Q. Okay. And just walk me through it, because<br/>6 I'm not sure I've been back to that loading dock.<br/>7 When you walk through that front door to the<br/>8 plant, and if you walk through the hall, the<br/>9 production floor is straight out in front of you,<br/>10 right? Would you come in from that side, the main<br/>11 side of the plant?<br/>12 A. Yes.<br/>13 Q. Opposite from where the loading docks are?<br/>14 A. Yes.<br/>15 Q. And then would you take a left to go down to<br/>16 that break room that's on the left? I'm trying to<br/>17 figure out where your locker is.<br/>18 A. You take a right.<br/>19 Q. And there's a break room down there?<br/>20 A. Right.<br/>21 Q. And as you go down there, you have live hang<br/>22 on your left as you go that direction?<br/>23 A. Which way are you coming in?</p>  |
| <p style="text-align: right;">23</p> <p>1 Q. Ongoing trend?<br/>2 A. Right.<br/>3 Q. Okay. How early would you have to come in?<br/>4 A. Well, I be to work about a quarter to 12.<br/>5 Q. Okay. So you would need to be there at<br/>6 11:45 p.m.?<br/>7 A. Yes.<br/>8 Q. Okay. And who told you you had to be there<br/>9 at 11:45?<br/>10 A. Jabo.<br/>11 Q. Okay. And tell me -- let's go through what<br/>12 you did when you arrived at work each day, or each<br/>13 night.<br/>14 A. I'd drive through the gates, get out my car,<br/>15 walk in the door, go to my locker, get all my<br/>16 stuff. Then I go up to the door, put my shoes on,<br/>17 dip my feet, go through some more double doors.<br/>18 Q. You're saying dip your feet?<br/>19 A. Right. My boots rather. And then I'd put<br/>20 my equipment on.<br/>21 Q. All right. When you were driving in, would<br/>22 you have your boots on?<br/>23 A. No.</p> | <p style="text-align: right;">25</p> <p>1 Q. I'm coming in from that main entrance to the<br/>2 first processing plant. And you go in and you<br/>3 come in the hall, and you can see out there the<br/>4 production floor. And you can take a right; that<br/>5 would make you go down toward live hang. Or you<br/>6 could take a left and you could go the other way.<br/>7 And there's a break room down on the left. I'm<br/>8 trying to get an idea of where your locker was.<br/>9 A. If you're coming through the main door<br/>10 there, it would be on the left.<br/>11 Q. So it was right there near the front of the<br/>12 building?<br/>13 A. Right.<br/>14 Q. Okay. So you would have on your ordinary<br/>15 street clothes?<br/>16 A. Right.<br/>17 Q. And then you would go to your locker. Tell<br/>18 me what would go on there at your locker.<br/>19 A. That's where I started putting my stuff on.<br/>20 Q. When would you swipe your timecard?<br/>21 A. Right when twelve o'clock get there.<br/>22 Q. You wouldn't come in and swipe it?<br/>23 A. No. Couldn't do that.</p> |



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| <p style="text-align: right;">26</p> <p>1 Q. So you would go -- just keep telling me what<br/>2 you were doing as you go to your locker. Let's go<br/>3 through that.<br/>4 A. I don't understand the question.<br/>5 Q. Well, you said you would go straight to your<br/>6 locker, correct?<br/>7 A. Correct.<br/>8 Q. And then tell me what you would do when you<br/>9 got to your locker.<br/>10 A. I just told you.<br/>11 Q. I know. Sometimes I've got to hear it more<br/>12 than once to get it set in my mind.<br/>13 A. I told you. I put my stuff on.<br/>14 Q. You would take your shoes off?<br/>15 A. I had the kind of boots you slide them on<br/>16 your -- what do you call them? I've got a pair.<br/>17 MR. PETRO: Boot covers?<br/>18 THE WITNESS: Yeah.<br/>19 A. You want to see them? I've got them in my<br/>20 car.<br/>21 Q. That's okay. You wouldn't have to take your<br/>22 shoes off; you would just put a boot cover on over<br/>23 them?</p> | <p style="text-align: right;">28</p> <p>1 Q. What else do you recall putting on at your<br/>2 locker?<br/>3 A. That's about it.<br/>4 Q. Was that pretty much what you wore for your<br/>5 job?<br/>6 A. Yes.<br/>7 Q. Anything else you wore?<br/>8 A. No.<br/>9 Q. Would you ever wear gloves? You mentioned<br/>10 gloves.<br/>11 A. We didn't put them on right then. But you<br/>12 do have to put on gloves to go in cold storage,<br/>13 walk-in freezer.<br/>14 Q. So when would you put on gloves?<br/>15 A. When I went in the walk-in freezer.<br/>16 Q. You could do that as you were walking in,<br/>17 not at your locker?<br/>18 A. No.<br/>19 Q. You wouldn't wear them -- if you were out on<br/>20 the loading dock, would you wear gloves?<br/>21 A. No.<br/>22 Q. Only if it was cold and you had to be in<br/>23 there working?</p>   |
| <p style="text-align: right;">27</p> <p>1 A. Right.<br/>2 Q. Tell me what items of clothing or PPE you<br/>3 would have to put on over your street clothes.<br/>4 A. Your smock, then you have to put on a beard<br/>5 net.<br/>6 Q. Okay. You had some kind of net that would<br/>7 cover up your beard?<br/>8 A. Right.<br/>9 Q. And what else?<br/>10 A. The goggles.<br/>11 Q. Okay. Anything else you would wear?<br/>12 A. Your gloves. But you don't put your gloves<br/>13 on right then.<br/>14 Q. So at your locker you would put on boot<br/>15 covers, smock, head net?<br/>16 A. Beard net.<br/>17 Q. What about a head net?<br/>18 A. Yeah, a hair net. Yeah.<br/>19 Q. So that's a yes to boot covers, smock, head<br/>20 net, beard net?<br/>21 A. Yes.<br/>22 Q. Anything else?<br/>23 A. Not that I can recall.</p>   | <p style="text-align: right;">29</p> <p>1 A. When I had to go in the freezer.<br/>2 Q. Would you put on other clothes when you went<br/>3 in the freezer?<br/>4 A. No. I already had them on.<br/>5 Q. Okay. Let's back up just a minute. At<br/>6 Equity Group, the only job you performed was the<br/>7 one you're telling me about on the forklift? When<br/>8 you were working for Keystone, you didn't do any<br/>9 other job other than working on the forklift; is<br/>10 that right?<br/>11 A. That's right.<br/>12 Q. And what was the name of the department?<br/>13 A. Cold storage.<br/>14 Q. Okay. When you worked for CP did you work<br/>15 in the cold storage department also?<br/>16 A. No.<br/>17 Q. I know you worked in janitorial?<br/>18 A. Yeah.<br/>19 Q. Nothing else?<br/>20 A. No, nothing else.<br/>21 Q. And you didn't have to wear any kind of<br/>22 smock or anything like that in janitorial?<br/>23 A. Only if I walked through the live hang.</p> |



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| <p style="text-align: right;">30</p> <p>1 Q. Okay. So when you would be cleaning up like</p> <p>2 the hallway and break rooms, you could wear what</p> <p>3 you're wearing now?</p> <p>4 A. Right.</p> <p>5 Q. Did part of your job include cleaning up the</p> <p>6 production floor? or was that for sanitation?</p> <p>7 A. Just the break room.</p> <p>8 Q. So you didn't have responsibility over the</p> <p>9 production out there where debone and evis is?</p> <p>10 A. No.</p> <p>11 Q. Okay. Did you have any job duties at that</p> <p>12 time in an area of the plant where they were</p> <p>13 actually processing chickens?</p> <p>14 A. No.</p> <p>15 Q. And so you could wear your normal clothes</p> <p>16 like you're wearing today for that job?</p> <p>17 A. Yes.</p> <p>18 Q. Any other jobs you performed out there at</p> <p>19 the chicken plant, whether it was CP or Keystone,</p> <p>20 other than janitorial and the forklift job?</p> <p>21 A. No.</p> <p>22 Q. Okay. That was it?</p> <p>23 A. (Witness nods head.)</p> | <p style="text-align: right;">32</p> <p>1 at your locker, correct?</p> <p>2 A. Right.</p> <p>3 Q. And would those be rubber gloves or what</p> <p>4 kind of gloves?</p> <p>5 A. Cotton.</p> <p>6 Q. And did the company issue those to you?</p> <p>7 A. Yes.</p> <p>8 Q. Did you wear any kind of plastic apron or</p> <p>9 sleeves?</p> <p>10 A. No.</p> <p>11 Q. You didn't need that because you weren't</p> <p>12 processing chickens, correct?</p> <p>13 A. Right.</p> <p>14 Q. Did you wear any kind of chain glove or</p> <p>15 safety gloves?</p> <p>16 A. No.</p> <p>17 Q. How about earplugs?</p> <p>18 A. No.</p> <p>19 Q. What about a bump cap? Did you wear any</p> <p>20 kind of cap on your head?</p> <p>21 A. What's that?</p> <p>22 Q. It's a cap they put on. Did you wear any</p> <p>23 kind of cap, other than your head net?</p>   |
| <p style="text-align: right;">31</p> <p>1 Q. Okay. Do you remember on janitorial what</p> <p>2 your pay rate was? I think you told me when you</p> <p>3 initially went to Equity Group it was \$6. Do you</p> <p>4 remember what it was back then?</p> <p>5 A. I think it was 5.50.</p> <p>6 Q. On janitorial?</p> <p>7 A. I think it was 5.50.</p> <p>8 Q. Okay. While you were at either CP or Equity</p> <p>9 Group, were you a member of the union?</p> <p>10 A. No.</p> <p>11 Q. Never were?</p> <p>12 A. No.</p> <p>13 Q. On either employment?</p> <p>14 A. Either employment.</p> <p>15 Q. Okay. Did you ever attend a union meeting</p> <p>16 even though you weren't a union member?</p> <p>17 A. No.</p> <p>18 Q. Let me just go back to the items of</p> <p>19 protective equipment you would put on at your</p> <p>20 locker there. I want to make sure I've got them</p> <p>21 all or there aren't others.</p> <p>22 You would use gloves when you would go into</p> <p>23 the cold storage, but you wouldn't put gloves on</p>         | <p style="text-align: right;">33</p> <p>1 A. No.</p> <p>2 Q. Did you wear goggles?</p> <p>3 A. Yes.</p> <p>4 Q. Would those come from the company?</p> <p>5 A. Yes.</p> <p>6 Q. So your company-issued items are your cotton</p> <p>7 gloves and your goggles and then your smock?</p> <p>8 A. Right.</p> <p>9 Q. And then your beard and head net?</p> <p>10 A. Right.</p> <p>11 Q. Okay. Did you wear any kind of coveralls?</p> <p>12 A. No.</p> <p>13 Q. And your boot covers, they were issued by</p> <p>14 the company?</p> <p>15 A. Yes.</p> <p>16 Q. So as far as what the company or your</p> <p>17 supervisor said you had to wear, tell me what</p> <p>18 items were required, that you were required to</p> <p>19 wear, out of those that we just talked about.</p> <p>20 A. Everything you put down there you're</p> <p>21 required to wear.</p> <p>22 Q. So you were required to wear goggles?</p> <p>23 A. Cotton gloves, smock, beard net, hair net,</p> |

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| <p style="text-align: right;">34</p> <p>1 and boot covers.</p> <p>2 Q. Right. But on the gloves, my understanding</p> <p>3 is you would wear them only in the cold storage?</p> <p>4 A. Right.</p> <p>5 Q. Did you ever get disciplined for not wearing</p> <p>6 any of those items?</p> <p>7 A. No.</p> <p>8 Q. Are you aware of anybody that ever got</p> <p>9 disciplined?</p> <p>10 A. No.</p> <p>11 Q. Did you have any understanding that you</p> <p>12 could be disciplined if you didn't wear these</p> <p>13 items?</p> <p>14 A. Yes.</p> <p>15 Q. And how did you have that understanding?</p> <p>16 A. It was in the handbook.</p> <p>17 Q. Okay. And they gave you a handbook?</p> <p>18 A. Yes.</p> <p>19 Q. And you read it?</p> <p>20 A. Right.</p> <p>21 Q. So would you store each of these items in</p> <p>22 your locker?</p> <p>23 A. All except my safety goggles.</p>   | <p style="text-align: right;">36</p> <p>1 Group on the forklift, when you started work they</p> <p>2 issued you each of those items, correct?</p> <p>3 A. Right.</p> <p>4 Q. And you never lost them during that time?</p> <p>5 A. No.</p> <p>6 Q. So you never had to go to the supply room</p> <p>7 and obtain any of these replacement items?</p> <p>8 A. No.</p> <p>9 Q. Your activities as far as putting those on</p> <p>10 would simply be at your locker you would put them</p> <p>11 on?</p> <p>12 A. Right.</p> <p>13 Q. Can you go through and tell me the purpose</p> <p>14 of each of these items, like the purpose of the</p> <p>15 goggles?</p> <p>16 A. Purpose of the goggles was to make sure to</p> <p>17 keep debris out your eyes and stuff.</p> <p>18 Q. How about the gloves?</p> <p>19 A. Keep your hands warm when you go in the</p> <p>20 freezer.</p> <p>21 Q. Okay. How about the smock?</p> <p>22 A. The smock? I never did figure out why you</p> <p>23 needed a smock.</p>  |
| <p style="text-align: right;">35</p> <p>1 Q. All except your goggles?</p> <p>2 A. Right. Like this right here.</p> <p>3 Q. Did you keep those with you?</p> <p>4 A. Yeah.</p> <p>5 Q. So when you would come in, like you</p> <p>6 described earlier, when you would drive through</p> <p>7 the gate to the plant, you would have your goggles</p> <p>8 in your pocket?</p> <p>9 A. On my head, just like now.</p> <p>10 Q. Okay. But the rest of the items, the</p> <p>11 gloves --</p> <p>12 A. I stored in my locker.</p> <p>13 Q. Okay. Did all the employees have lockers?</p> <p>14 A. I couldn't say.</p> <p>15 Q. But you know you did?</p> <p>16 A. Yes.</p> <p>17 Q. How many lockers were around where yours</p> <p>18 was?</p> <p>19 A. I couldn't say.</p> <p>20 Q. Okay. Did you ever have occasion to lose</p> <p>21 any of those items?</p> <p>22 A. No.</p> <p>23 Q. Okay. This time when you worked at Equity</p> | <p style="text-align: right;">37</p> <p>1 Q. Okay. You weren't processing?</p> <p>2 A. No, I wasn't processing.</p> <p>3 Q. So you didn't need a smock?</p> <p>4 A. Yeah, that's what I'm saying.</p> <p>5 Q. You didn't feel you needed it; is that what</p> <p>6 you're saying?</p> <p>7 A. Yeah.</p> <p>8 Q. How about the beard net and head net?</p> <p>9 A. Keep your hair from -- if it might break</p> <p>10 off, it might get in some of the meat and stuff.</p> <p>11 Q. What about the boot covers?</p> <p>12 A. Sometimes the floor be wet; and your shoes,</p> <p>13 you might slip.</p> <p>14 Q. They help with gripping the floor?</p> <p>15 A. Yes.</p> <p>16 Q. All right. I want to take you back to when</p> <p>17 you would get to the plant and you would go to</p> <p>18 your locker. Okay?</p> <p>19 You've got your goggles on your head, like</p> <p>20 you have now. Tell me what process you would go</p> <p>21 through to get ready for work. Tell me what you</p> <p>22 would put on first.</p> <p>23 A. What part you got lost at?</p> |

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| <p style="text-align: right;">38</p> <p>1 MR. PETRO: Just answer his question.</p> <p>2 Q. I'm not lost. I haven't asked you this</p> <p>3 question yet. You've told me generally what you</p> <p>4 did, and now I'm asking the order in which you</p> <p>5 would put on these items.</p> <p>6 A. Okay. I'll put my smock on first sometimes.</p> <p>7 Q. Okay.</p> <p>8 A. Or I'll put my boots on first sometimes.</p> <p>9 Q. Okay.</p> <p>10 A. And I'll put my beard net on and then my</p> <p>11 hair net on.</p> <p>12 Q. Could you have taken any of those items home</p> <p>13 and put them on if you had wanted to?</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. Not allowed to.</p> <p>17 Q. They wouldn't let you do it?</p> <p>18 A. No.</p> <p>19 Q. Okay. And your gloves, you wouldn't put</p> <p>20 those on at your locker; is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. You would put them in your pocket, I take</p> <p>23 it?</p> | <p style="text-align: right;">40</p> <p>1 area?</p> <p>2 A. Right.</p> <p>3 Q. But you could, as you were walking, you</p> <p>4 could put the head net on, correct?</p> <p>5 A. I'm trying to understand that question.</p> <p>6 Q. All right. I'm just saying -- if I said,</p> <p>7 "How about, while you're walking, put your hair</p> <p>8 net on," you could do that, couldn't you?</p> <p>9 A. You mean, inside the processing plant?</p> <p>10 Q. Out in the hallway.</p> <p>11 A. Yeah.</p> <p>12 Q. As you're just walking, you could --</p> <p>13 A. In the hallway?</p> <p>14 Q. Right.</p> <p>15 A. Yes.</p> <p>16 Q. And so how long does it take you to put your</p> <p>17 smock on?</p> <p>18 A. Sometimes it might take me -- well, it's</p> <p>19 like how long it takes to put on a shirt.</p> <p>20 Q. I mean, 30 seconds?</p> <p>21 A. You could say that.</p> <p>22 Q. Okay. And then the head net and beard net,</p> <p>23 is that the same it takes to put a hat on?</p>  |
| <p style="text-align: right;">39</p> <p>1 A. I'd have them in my hand.</p> <p>2 Q. And you can put your gloves on while you're</p> <p>3 walking, correct?</p> <p>4 A. If you wanted to.</p> <p>5 Q. Is that what you did?</p> <p>6 A. No.</p> <p>7 Q. How did you do it?</p> <p>8 A. I only put my gloves on when I was going in</p> <p>9 the freezer.</p> <p>10 Q. Right. But when you were going in the</p> <p>11 freezer, you could pull you gloves on?</p> <p>12 A. Right.</p> <p>13 Q. What about your smock? Could you put that</p> <p>14 on while you were walking?</p> <p>15 A. I'd already have it on.</p> <p>16 Q. But you physically could put the smock on</p> <p>17 while you were walking, correct?</p> <p>18 A. Yes, if you wanted to.</p> <p>19 Q. And the same with the head net and beard</p> <p>20 net?</p> <p>21 A. You've got to put that on almost</p> <p>22 immediately.</p> <p>23 Q. Right. Before you go back in the production</p>                | <p style="text-align: right;">41</p> <p>1 A. Yeah.</p> <p>2 Q. So a few seconds?</p> <p>3 A. Just put it this way here: Round it all off</p> <p>4 to put on everything, you're looking at anywhere</p> <p>5 from 10 -- 10 minutes or more.</p> <p>6 Q. So we've got 30 seconds on the smock. How</p> <p>7 about on the head net?</p> <p>8 MR. PETRO: Object to the form. I</p> <p>9 think he tried to answer it the best he can. But</p> <p>10 go ahead.</p> <p>11 A. I just answered it.</p> <p>12 Q. Well, I want you to give me an estimate. I</p> <p>13 think I asked the question: Is it like putting a</p> <p>14 hat on? And you said yeah.</p> <p>15 A. (No response.)</p> <p>16 Q. And I'm just asking you for your estimate of</p> <p>17 how many seconds it takes you to put your head net</p> <p>18 and beard net on.</p> <p>19 A. I just told you, to round everything, to put</p> <p>20 on everything, you're looking at 10-plus.</p> <p>21 Q. I know. I understand you said that. But</p> <p>22 I'm entitled to ask you how long it takes.</p> <p>23 A. Well, that's the best I can answer the</p> |

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| <p style="text-align: right;">42</p> <p>1 question.</p> <p>2 Q. Well, I'm going to ask you each item how</p> <p>3 long it takes to put it on.</p> <p>4 A. I don't know.</p> <p>5 Q. Then how do you know it takes 10 minutes?</p> <p>6 A. Look, I ain't trying to be rude. It takes</p> <p>7 from 10-plus to put on everything.</p> <p>8 Q. All right. How long does it take you to put</p> <p>9 your boot covers on?</p> <p>10 A. I don't know.</p> <p>11 Q. And the answer on head net was that you</p> <p>12 don't know, right?</p> <p>13 A. Right.</p> <p>14 Q. And then gloves. You put those on as you</p> <p>15 are walking into the cooler; is that correct?</p> <p>16 A. Right.</p> <p>17 Q. You don't have to use knives or scissors on</p> <p>18 your job?</p> <p>19 A. No.</p> <p>20 Q. What other tools or equipment do you use to</p> <p>21 perform your job duties?</p> <p>22 A. None.</p> <p>23 Q. You just get on the forklift and drive,</p>  | <p style="text-align: right;">44</p> <p>1 that time?</p> <p>2 A. Right.</p> <p>3 Q. And would they wear the same items as you</p> <p>4 would?</p> <p>5 A. Right.</p> <p>6 Q. Goggles, smock, head net, beard net, boot</p> <p>7 covers?</p> <p>8 A. Right.</p> <p>9 Q. Did any of those other people wear any</p> <p>10 equipment in addition to what you wore?</p> <p>11 A. Rephrase that again.</p> <p>12 Q. Of the people that operated the pallet jacks</p> <p>13 like you did, did they wear any protective gear or</p> <p>14 equipment that you did not wear? Did they wear</p> <p>15 anything in addition to what you wore?</p> <p>16 A. We all wore the same thing.</p> <p>17 Q. Okay.</p> <p>18 A. Same thing.</p> <p>19 Q. You told me earlier your shift ended at</p> <p>20 8 a.m.?</p> <p>21 A. Yes.</p> <p>22 Q. And you said you would clock in at what</p> <p>23 time? midnight?</p>   |
| <p style="text-align: right;">43</p> <p>1 right, or push, or whatever you do?</p> <p>2 A. Right.</p> <p>3 Q. How many other people did the same job you</p> <p>4 did at the time you would be working? Were there</p> <p>5 other forklift operators?</p> <p>6 A. There was pallet jack operators, but I</p> <p>7 couldn't tell you how many there was.</p> <p>8 Q. I used the term pallet jack earlier. Is</p> <p>9 that what you call your piece of equipment, a</p> <p>10 pallet jack?</p> <p>11 A. Some people called it a forklift. It</p> <p>12 varies.</p> <p>13 Q. What I'm thinking of when I say pallet jack,</p> <p>14 it's got like forklift pieces on it, but it's on</p> <p>15 rollers and you push it; and it's got like a</p> <p>16 hydraulic where you could pump it up.</p> <p>17 A. No. This is ran by battery, and you do like</p> <p>18 (indicating).</p> <p>19 Q. I see. But you didn't sit in it; it was</p> <p>20 like pushing a lawn mower or something?</p> <p>21 A. Right.</p> <p>22 Q. Okay. I understand. So there were other</p> <p>23 people that were operating that same equipment at</p> | <p style="text-align: right;">45</p> <p>1 A. Twelve.</p> <p>2 Q. Twelve. And then clock out at eight?</p> <p>3 A. Right.</p> <p>4 Q. And to get into the plant, you would have to</p> <p>5 go in through security?</p> <p>6 A. Right.</p> <p>7 Q. Would you have to wait in line to do that or</p> <p>8 could you drive on through?</p> <p>9 A. Had to wait in line sometimes.</p> <p>10 Q. And you would be pulling through security</p> <p>11 typically at what time?</p> <p>12 A. Well, I'd say about 20 'til.</p> <p>13 Q. Okay. And that's just a matter of showing</p> <p>14 them your badge or your identification, and then</p> <p>15 they would let you through?</p> <p>16 A. Right. And take you about five minutes to</p> <p>17 get your parking space. And that be about a</p> <p>18 quarter 'til, 11:45, coming in.</p> <p>19 Q. I understand. And then how many breaks did</p> <p>20 you get once you started working?</p> <p>21 A. It's done been so long. I want to be as</p> <p>22 truthful as I possibly can. I think two 30-minute</p> <p>23 breaks.</p> |

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| <p style="text-align: right;">46</p> <p>1 Q. Okay. And how did you spend your break<br/>2 time? Did you go to a break room? Tell me what<br/>3 you did.<br/>4 A. I'd mostly go to the break room and read.<br/>5 Q. What would you read?<br/>6 A. The Holy Quran.<br/>7 Q. Okay. So to get from your work area to the<br/>8 break room, tell me what you would do. Would you<br/>9 take your smock and so forth off?<br/>10 A. Yes.<br/>11 Q. Where would you do that?<br/>12 A. Right there by the -- I call it the<br/>13 cesspool, because it's got all that sanitizer in<br/>14 it.<br/>15 Q. You call it what?<br/>16 A. I call it cesspool.<br/>17 MR. PETRO: Cesspool.<br/>18 Q. Like c-e-s-s pool?<br/>19 A. Yeah. That's what I called it.<br/>20 Q. And tell me where that area is.<br/>21 A. You got me throwed off. Live hang and<br/>22 debone, and then another department is called<br/>23 something else. Evis. Yeah. Debone.</p>   | <p style="text-align: right;">48</p> <p>1 A. Jabo.<br/>2 Q. And would you clock out or in or what?<br/>3 A. No. You just go to break.<br/>4 Q. Did you keep track of how long your break<br/>5 lasted?<br/>6 A. Only time I knew when it was over with,<br/>7 he'll call you in.<br/>8 Q. So he would tell you when to go to break and<br/>9 when to come back?<br/>10 A. Right.<br/>11 Q. Would y'all all take the break at the same<br/>12 time?<br/>13 A. No.<br/>14 Q. Okay. How would that work?<br/>15 A. Because, to give a good example, you may<br/>16 have a truck got to be loaded up. I might not<br/>17 have nothing to be loaded up. He'll tell you to<br/>18 load your truck up and tell me to go to break.<br/>19 Q. And when he gets finished, he may go to<br/>20 break?<br/>21 A. Right. That's how that worked there.<br/>22 Q. So you really couldn't control when the<br/>23 trucks were there, so somebody had to be there</p>   |
| <p style="text-align: right;">47</p> <p>1 Q. So you would hang it in the debone area?<br/>2 A. Right.<br/>3 Q. And then what break room would you take your<br/>4 break in?<br/>5 A. Right across from debone.<br/>6 Q. Is that the same one where your locker was?<br/>7 A. Right. It's been a long time since I've<br/>8 been there.<br/>9 Q. Sure. So you would get into the break room<br/>10 and you would read?<br/>11 A. Right.<br/>12 Q. And then what else would you do? anything<br/>13 else?<br/>14 A. I might eat me a snack and I might not.<br/>15 Q. Okay. And how would you know -- did you<br/>16 have a set time every day for every break that you<br/>17 would take? I mean, like would it be at like<br/>18 2:30 a.m. every morning, or how would that work?<br/>19 I'm just using that as an example.<br/>20 A. That varies too, sec. Sometimes they'll<br/>21 tell you to go early; sometimes they'll tell you<br/>22 to go late.<br/>23 Q. And who would tell you that?</p> | <p style="text-align: right;">49</p> <p>1 when the trucks would come in; is that what I'm<br/>2 hearing?<br/>3 A. Right.<br/>4 Q. And would you drive yourself to work every<br/>5 day or would you ride with somebody?<br/>6 A. I drove my own car.<br/>7 Q. Okay. When you would be there at your<br/>8 locker when you would come in at the beginning of<br/>9 your shift, would you do anything other than put<br/>10 your PPE on, your smock and your head net? Would<br/>11 you go to a snack machine or do anything like<br/>12 that?<br/>13 A. No.<br/>14 Q. Did you have any other part of your daily<br/>15 routine? Did you do anything other than put on<br/>16 your stuff at the locker?<br/>17 A. When I get to work, I'd get prepared to go<br/>18 to work. I ain't got time to walk around and do<br/>19 nothing else.<br/>20 Q. Okay. And tell me, when you would swipe<br/>21 your card, you're telling me that they wouldn't<br/>22 allow you to swipe it until midnight?<br/>23 A. Right.</p> |

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| <p style="text-align: right;">50</p> <p>1 Q. How many people would be there to swipe the</p> <p>2 card at the same time?</p> <p>3 A. Oh, man. It would be however many people on</p> <p>4 the shift.</p> <p>5 Q. It would be a lot of people standing there?</p> <p>6 A. A lot of people waiting.</p> <p>7 Q. And where is that machine that you would</p> <p>8 swipe your card?</p> <p>9 A. Right across from debone.</p> <p>10 Q. And that is the one you would have to use?</p> <p>11 A. Right.</p> <p>12 Q. Did some of the employees -- when you would</p> <p>13 be in there at your locker, would you notice other</p> <p>14 employees --</p> <p>15 MR. SMITH: Strike that.</p> <p>16 Q. When you would be at your locker getting</p> <p>17 dressed for your shift, would there be other</p> <p>18 employees in the break room sitting around at the</p> <p>19 tables, talking and eating and so forth? Did you</p> <p>20 ever notice that?</p> <p>21 A. Yes.</p> <p>22 Q. And would those be people that had just</p> <p>23 gotten to work early that were having a snack or</p> | <p style="text-align: right;">52</p> <p>1 thinking correctly he would tell you to be in the</p> <p>2 back at twelve o'clock. Do you understand what</p> <p>3 I'm saying?</p> <p>4 Q. Sure.</p> <p>5 A. I mean, you've got to rush to clock in and</p> <p>6 get to the back; you understand? knowing you might</p> <p>7 be five minutes late or ten minutes late. But</p> <p>8 you've got to clock in at twelve o'clock.</p> <p>9 Q. Did you ever see anybody clock in before</p> <p>10 twelve?</p> <p>11 A. No.</p> <p>12 Q. All right. So have you told me everything</p> <p>13 you'd do from the time you'd drive through that</p> <p>14 gate until the time you started work?</p> <p>15 A. Say that again.</p> <p>16 Q. Have you told me everything that you would</p> <p>17 do from the time you'd drive through the security</p> <p>18 gate until the time you started performing your</p> <p>19 job duties?</p> <p>20 A. Have I told you that?</p> <p>21 Q. Have you told me all the activities you'd</p> <p>22 undertake?</p> <p>23 A. Yes.</p>  |
| <p style="text-align: right;">51</p> <p>1 something?</p> <p>2 A. It would be some getting ready to go home.</p> <p>3 Q. So they would be sitting around there at the</p> <p>4 end?</p> <p>5 A. Right.</p> <p>6 Q. What about those that would be starting?</p> <p>7 Would there be any about to start work?</p> <p>8 A. Yes.</p> <p>9 Q. How many? Any estimate of how many normally</p> <p>10 would be there?</p> <p>11 A. I don't know.</p> <p>12 Q. What time were you required to be at your</p> <p>13 position ready to work?</p> <p>14 A. At twelve o'clock.</p> <p>15 Q. Would that mean you would have to clock in</p> <p>16 before twelve?</p> <p>17 A. You couldn't. You clocked in at twelve.</p> <p>18 Q. How could you wait in line with all those</p> <p>19 people and be all the way back to the loading dock</p> <p>20 at twelve? How could you do both of those things</p> <p>21 at twelve?</p> <p>22 A. Well, let's try to be rational. When you've</p> <p>23 got a person whose mind is irrational, if he's not</p>  | <p style="text-align: right;">53</p> <p>1 Q. Okay. And as I understand it, that is drive</p> <p>2 through the security gate, park your car; you walk</p> <p>3 to your locker; you put on your smock, beard net,</p> <p>4 head net, boot covers; you go swipe in your card,</p> <p>5 and then you start working?</p> <p>6 A. Right.</p> <p>7 Q. Anything else in between all those</p> <p>8 activities?</p> <p>9 A. Nothing else.</p> <p>10 Q. You mentioned you would be out there and</p> <p>11 there would be a lot of people there waiting in</p> <p>12 line to swipe their timecard in. Do you remember</p> <p>13 you told me that? to clock in?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ever see anybody out there in that</p> <p>16 area putting on their smock or their hat as they</p> <p>17 were going toward the time clock?</p> <p>18 A. No.</p> <p>19 Q. Okay. So you're saying -- did you ever see</p> <p>20 them doing anything like putting gloves on, gear</p> <p>21 on, as they walked toward the time clock?</p> <p>22 A. No.</p> <p>23 Q. Where would they put it on, people that you</p> |



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| <p style="text-align: right;">54</p> <p>1 observed?</p> <p>2 A. By their locker.</p> <p>3 Q. Okay. How long would it take you to walk</p> <p>4 from your work area to the break room where you</p> <p>5 took your breaks?</p> <p>6 A. It varied.</p> <p>7 Q. Okay.</p> <p>8 A. Because you've got a whole department. I</p> <p>9 mean, hypothetical. You've got 50 people in</p> <p>10 there, and everybody's trying to get out front,</p> <p>11 and you're the last one.</p> <p>12 Q. All right. How long would that take you?</p> <p>13 A. I really couldn't tell you.</p> <p>14 Q. If there was nobody there, how long would it</p> <p>15 take you?</p> <p>16 A. I really couldn't tell you.</p> <p>17 Q. One minute? five minutes?</p> <p>18 A. I really couldn't tell you.</p> <p>19 Q. Did you ever time it?</p> <p>20 A. No.</p> <p>21 Q. When you would go on break, did you have to</p> <p>22 wash your hands or go to a wash station or</p> <p>23 anything like that?</p> | <p style="text-align: right;">56</p> <p>1 Q. So the only thing that you would take off at</p> <p>2 break was your smock?</p> <p>3 A. I'd take off my smock.</p> <p>4 Q. Okay. Can you give me any estimate of how</p> <p>5 long, what the length of time is between when</p> <p>6 you'd leave your work area and when you'd leave</p> <p>7 the break room?</p> <p>8 A. No, I can't.</p> <p>9 Q. Is that because you can't recall?</p> <p>10 A. I don't know.</p> <p>11 Q. Don't know. Okay. And while you were on</p> <p>12 break, you've said that you would read, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And that would be in the break room?</p> <p>15 A. In the break room.</p> <p>16 Q. Did you have the ability to go outside the</p> <p>17 break room, like outside the plant, if you wanted</p> <p>18 to?</p> <p>19 A. Yes.</p> <p>20 Q. So you could leave the building?</p> <p>21 A. Yes.</p> <p>22 Q. What else could you do? Could you go</p> <p>23 outside into the parking lot to your car?</p> |
| <p style="text-align: right;">55</p> <p>1 A. No.</p> <p>2 Q. I guess you weren't working with the raw</p> <p>3 poultry so you didn't have to clean up; is that</p> <p>4 correct?</p> <p>5 A. No.</p> <p>6 Q. Were there any items, like your smock or</p> <p>7 your head net, that you would keep on during the</p> <p>8 break?</p> <p>9 A. No. Let me rectify something.</p> <p>10 Q. Okay.</p> <p>11 A. You said keep on during the break. You</p> <p>12 would take them off.</p> <p>13 Q. Okay. So I guess you're saying you would</p> <p>14 take off everything at break?</p> <p>15 A. Everything except for my boots.</p> <p>16 Q. You would leave your boot covers on, put</p> <p>17 your goggles on your head like you have them now?</p> <p>18 A. Right.</p> <p>19 Q. And you would take off your smock and your</p> <p>20 head net?</p> <p>21 A. I'd take my smock off.</p> <p>22 Q. What about your head net?</p> <p>23 A. I'd keep that on.</p>                          | <p style="text-align: right;">57</p> <p>1 A. Yes, I could.</p> <p>2 Q. That wouldn't be against the rules?</p> <p>3 A. No.</p> <p>4 Q. Could you leave the plant premises? Could</p> <p>5 you get in your car and drive outside the plant on</p> <p>6 break?</p> <p>7 A. Yes, you could.</p> <p>8 Q. You could do that?</p> <p>9 A. Yes.</p> <p>10 Q. And I think you told me earlier your breaks</p> <p>11 were normally 30 minutes?</p> <p>12 A. Yes.</p> <p>13 Q. And you had two of those per shift?</p> <p>14 A. Yes.</p> <p>15 Q. And then when you would come off your break,</p> <p>16 you would make your way straight back to the area</p> <p>17 where you worked?</p> <p>18 A. Right.</p> <p>19 Q. Where would you put your smock on?</p> <p>20 A. When I'd get back inside debone.</p> <p>21 Q. You would put your smock on inside?</p> <p>22 A. Dip my feet, then put my smock back on.</p> <p>23 Q. And would you put your smock on as you were</p>  |



## MERRILL LEGAL SOLUTIONS

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| <p style="text-align: right;">58</p> <p>1 walking to your work area?</p> <p>2 A. No. I'd put it on right then.</p> <p>3 Q. At the end of your shift, tell me what you</p> <p>4 would do, when you would get done working.</p> <p>5 A. Be prepared to go home.</p> <p>6 Q. I guess I'm asking you what steps are</p> <p>7 involved in that. You finished work. What was</p> <p>8 the first thing you would do? Did you clock out?</p> <p>9 A. I started walking toward the front.</p> <p>10 Q. And then you would clock out? Walk me</p> <p>11 through it.</p> <p>12 A. I'd walk to the front, walk through the</p> <p>13 doors, take my smock off, walk to my locker and</p> <p>14 put stuff in my locker. When I finished that</p> <p>15 there, then I'd go to the time clock, clock out,</p> <p>16 then go home.</p> <p>17 Q. So you would clock out after you'd take that</p> <p>18 stuff off?</p> <p>19 A. Right.</p> <p>20 Q. What time normally would you swipe that</p> <p>21 card? Do you have any idea?</p> <p>22 A. No, I don't have no idea.</p> <p>23 Q. Okay. What is your understanding of how</p> | <p style="text-align: right;">60</p> <p>1 understand that?</p> <p>2 A. Yeah.</p> <p>3 Q. When would that time start?</p> <p>4 A. When you clocked in.</p> <p>5 Q. That's your understanding?</p> <p>6 A. Right.</p> <p>7 Q. When would it stop?</p> <p>8 A. When you clocked out.</p> <p>9 Q. Okay. Did you ever have any occasion where</p> <p>10 you had to go to payroll or to human resources and</p> <p>11 complain that your check was short, that you</p> <p>12 weren't paid what you thought you should be paid?</p> <p>13 A. Yes.</p> <p>14 Q. When was that?</p> <p>15 A. My lunch period.</p> <p>16 Q. But did you ever go complain to anybody?</p> <p>17 A. Yes. I complained to Jabo.</p> <p>18 Q. When was that?</p> <p>19 A. When I was there. On numerous occasions.</p> <p>20 Q. And that was that you wanted to be paid for</p> <p>21 your break?</p> <p>22 A. I wanted to be paid for the work I was doing</p> <p>23 and wasn't getting paid for.</p>                          |
| <p style="text-align: right;">59</p> <p>1 Equity Group kept track of the time that you</p> <p>2 worked?</p> <p>3 A. I don't understand the question.</p> <p>4 Q. Do you have any understanding -- they paid</p> <p>5 you by the hour, correct? You would get paid an</p> <p>6 hourly rate?</p> <p>7 A. Right.</p> <p>8 Q. So they would need to keep up with how many</p> <p>9 hours you worked?</p> <p>10 A. Right.</p> <p>11 Q. Do you have any understanding of how they</p> <p>12 kept up with how many hours you worked?</p> <p>13 A. The timecard.</p> <p>14 Q. So you swiped in, and the time system would</p> <p>15 keep track of that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have an understanding of when your</p> <p>18 pay would start, when the time would start running</p> <p>19 for what they would base your pay on?</p> <p>20 A. Give me an example.</p> <p>21 Q. Well, at what point do you think the time --</p> <p>22 they have to keep track of your time so they could</p> <p>23 pay you based on your time, correct? You</p>   | <p style="text-align: right;">61</p> <p>1 Q. Tell me what work that was.</p> <p>2 A. Such as getting prepared to go to work.</p> <p>3 Q. So what we've been talking about?</p> <p>4 A. Right.</p> <p>5 Q. Nothing other than that?</p> <p>6 A. Nothing other than that.</p> <p>7 Q. Okay. Were you paid weekly?</p> <p>8 A. Right, weekly.</p> <p>9 Q. Would you study your check? There's a pay</p> <p>10 stub on there, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Would you look that over?</p> <p>13 A. I looked over all my checks.</p> <p>14 Q. And was that to make sure you were getting</p> <p>15 paid for what you worked?</p> <p>16 A. Right, for what I worked.</p> <p>17 Q. And it would show on there how many hours</p> <p>18 they were paying you for, correct?</p> <p>19 A. Right.</p> <p>20 Q. Okay. And do you have any reason to think</p> <p>21 that any of these paychecks or those pay stubs</p> <p>22 that had that information on it were inaccurate?</p> <p>23 A. Yes.</p> |

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| <p style="text-align: right;">62</p> <p>1 Q. Why was that?</p> <p>2 A. I just told you. I wasn't getting paid for</p> <p>3 getting ready to go to work.</p> <p>4 Q. Okay. Did you ever keep your own set of</p> <p>5 time records on how much you worked? In other</p> <p>6 words, would you write down when you got there,</p> <p>7 when you'd leave, when you went on break?</p> <p>8 A. No.</p> <p>9 Q. Do you know anybody that would keep those</p> <p>10 kind of records?</p> <p>11 A. No, I don't.</p> <p>12 Q. Any other employees?</p> <p>13 A. No, I don't.</p> <p>14 Q. Have you tried to add up how much time you</p> <p>15 had that you claim you're due to be paid for, as</p> <p>16 far as for putting on your smock and so forth?</p> <p>17 Have you figured that up?</p> <p>18 A. I attempted to one time. I lost interest in</p> <p>19 it.</p> <p>20 Q. Why is that?</p> <p>21 A. It's like beating your head against the</p> <p>22 wall.</p> <p>23 Q. You weren't able to figure it out?</p> | <p style="text-align: right;">64</p> <p>1 Department of Labor or with the EEOC or any kind</p> <p>2 of governmental agency about your pay?</p> <p>3 A. No.</p> <p>4 Q. Did you ever have any kind of disciplinary</p> <p>5 action against you or any counseling while you</p> <p>6 worked at Equity Group?</p> <p>7 A. No. Can I call my work and let them know</p> <p>8 this is going to take longer?</p> <p>9 Q. Go ahead. That's fine.</p> <p>10 (A brief recess was taken.)</p> <p>11 MR. SMITH: I'm done. Thank you for</p> <p>12 your time.</p> <p>13 MR. PETRO: No questions.</p> <p>14</p> <p>15 (The deposition was concluded.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">63</p> <p>1 A. I mean, it was like beating your head</p> <p>2 against the wall.</p> <p>3 Q. Did you write down some calculations?</p> <p>4 A. Yes, I did.</p> <p>5 Q. Do you have those?</p> <p>6 A. No, I don't.</p> <p>7 Q. Do you remember what you came up with?</p> <p>8 A. No, I don't.</p> <p>9 Q. Did you ever have to stay past 8 a.m. to</p> <p>10 work overtime?</p> <p>11 A. No.</p> <p>12 Q. They never asked you to stay extra?</p> <p>13 A. Never asked me.</p> <p>14 Q. Okay. And you're not a union member, but</p> <p>15 have you ever filed any kind of grievance with the</p> <p>16 union?</p> <p>17 A. No.</p> <p>18 Q. Okay. And other than your complaints that</p> <p>19 you told me about with Jabo, have you made any</p> <p>20 other complaints to him about your work conditions</p> <p>21 or your pay or anything like that?</p> <p>22 A. No.</p> <p>23 Q. Have you filed any kind of claim with the</p>   | <p style="text-align: right;">65</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 BARBOUR COUNTY</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription, and that the foregoing represents</p> <p>11 a true and correct transcript of the testimony</p> <p>12 given by said witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor kin to the parties to the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18</p> <p>19 CYNTHIA M. NOAKES, Commissioner</p> <p>20 Certified Court Reporter,</p> <p>21 ACCR #327 - Expires 09/30/2008</p> <p>22</p> <p>23 Commission Expires 07/08/2009</p> |

**TAB 48**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,  
Plaintiff(s),

vs.

EQUITY GROUP EUFAULA  
DIVISION, LLC,  
Defendant(s).

DEPOSITION OF  
ROSE D. SHAW

JOB NO. 1101-58505

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 23rd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of ROSE D. SHAW may be</p> <p>16 taken before Victoria M. Castillo, Commissioner, at</p> <p>17 WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 23rd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6, 60</p> <p>5 Mr. Steensland 50</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 * Shaw Exhibit 1 46</p> <p>9</p> <p>10 * Exhibit was retained by counsel.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |

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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 11:41 a.m., ROSE D. SHAW, in<br/> 4 the above cause, for oral examination, whereupon<br/> 5 the following proceedings were had:<br/> 6<br/> 7 ROSE D. SHAW,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 EXAMINATION BY MR. FRY:<br/> 12 Q. Ms. Shaw, my name is Gary Fry. I'm<br/> 13 one of the lawyers for Equity Group Eufaula that<br/> 14 operate that poultry plant that you worked at at<br/> 15 some point -- and you may still do -- out at Baker<br/> 16 Hill. We've asked you here today to put some<br/> 17 questions to you. Have you ever given a<br/> 18 deposition?<br/> 19 A. I think I have.<br/> 20 Q. Well, we've asked you here to put<br/> 21 some questions to you about the lawsuit that you<br/> 22 and some other folks have brought against the<br/> 23 company. I will be asking you some questions, and</p> | <p style="text-align: right;">8</p> <p>1 A. Ever since they took over about --<br/> 2 they have been there about three years.<br/> 3 Q. If I would suggest to you that they<br/> 4 took over in around March of 2004, would that be<br/> 5 consistent with your recollection?<br/> 6 A. 2004, I guess. I thought it was --<br/> 7 yes.<br/> 8 Q. When you went to work there, was it<br/> 9 operated by Equity?<br/> 10 A. No.<br/> 11 Q. CP was still there?<br/> 12 A. Yes.<br/> 13 Q. How long after you started did Equity<br/> 14 take over?<br/> 15 A. I don't know when they had took<br/> 16 over. I don't understand what you mean.<br/> 17 Q. When do you recall starting to work<br/> 18 at that plant?<br/> 19 A. August 1998.<br/> 20 Q. You've been there a long time. So<br/> 21 you've been there almost ten years?<br/> 22 A. Yes.<br/> 23 Q. What's your current job out there?</p>   |
| <p style="text-align: right;">7</p> <p>1 you will be answering, and Victoria, the court<br/> 2 reporter, will be taking down what we say. She can<br/> 3 only take down one of us at a time, so let's not<br/> 4 try and talk over one another. And if you don't<br/> 5 understand any of my questions, it's important for<br/> 6 you to let me know that and I will try and rephrase<br/> 7 it so you will understand it. If you don't hear<br/> 8 anything that I say, let me know. And finally, any<br/> 9 answer that you give, it has to be verbal because<br/> 10 she can't record a nod or a shake of the head.<br/> 11 Okay?<br/> 12 A. Okay.<br/> 13 Q. Where do you live?<br/> 14 A. Clay County, Georgia.<br/> 15 Q. Could you give us your address?<br/> 16 A. 19 Red Fox Lane, Bluffton, Georgia.<br/> 17 Q. And what is your date of birth?<br/> 18 A. November 28th, 1956.<br/> 19 Q. Are you currently employed?<br/> 20 A. Yes.<br/> 21 Q. By whom?<br/> 22 A. By Equity Group.<br/> 23 Q. How long have you worked for Equity?</p>                        | <p style="text-align: right;">9</p> <p>1 A. I'm down at the bottom of the line<br/> 2 working in the combos, checking to make sure there<br/> 3 is no skin, no bones, or nothing in the combo or on<br/> 4 the meat. So I really work -- they put me there in<br/> 5 the combos at the end of the line to check for to<br/> 6 make sure no bone in the breast meat or no skin on<br/> 7 the breast meat, make sure everything out the<br/> 8 combos, but they do move me around.<br/> 9 Q. Am I correct that you work in the<br/> 10 debone department?<br/> 11 A. Yes.<br/> 12 Q. And you work around the debone<br/> 13 production line?<br/> 14 A. Right, at the end of the line.<br/> 15 Q. Do you actually get on the line and<br/> 16 cut chickens?<br/> 17 A. No.<br/> 18 Q. How long have you had this job?<br/> 19 A. It's been about two years or more. I<br/> 20 think -- I'm not for sure.<br/> 21 Q. Does the company have a name for the<br/> 22 job you do?<br/> 23 A. I don't know.</p> |

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| <p style="text-align: right;">10</p> <p>1 Q. But you check chicken that's already</p> <p>2 in the combos?</p> <p>3 A. Right, I'm checking the chicken</p> <p>4 coming down the line, falling into the combos.</p> <p>5 Q. To make sure it gets into the combos?</p> <p>6 A. Well, it going to get into the</p> <p>7 combos. I am there to make sure nothing else don't</p> <p>8 go in the combo but the chicken -- no bone, no</p> <p>9 skin.</p> <p>10 Q. And you indicated to me from time to</p> <p>11 time they move you around and you do some other</p> <p>12 things?</p> <p>13 A. Yes.</p> <p>14 Q. What are some of the other things</p> <p>15 they do?</p> <p>16 A. I go down and turn the meat on the</p> <p>17 end of the line, which is about the last -- make</p> <p>18 sure it go through the skin puller, turn it over.</p> <p>19 Q. To make sure it's --</p> <p>20 A. The skin off of it.</p> <p>21 Q. The skin comes off properly, it's in</p> <p>22 the right position, is that what you do?</p> <p>23 A. Right.</p> | <p style="text-align: right;">12</p> <p>1 A. They change so much, I really can't</p> <p>2 say.</p> <p>3 Q. What's your current rate of pay?</p> <p>4 A. \$10.</p> <p>5 Q. And who is your supervisor?</p> <p>6 A. Donna Bell.</p> <p>7 Q. How many hours per week do you work?</p> <p>8 A. Forty.</p> <p>9 Q. Monday through Friday?</p> <p>10 A. Yes.</p> <p>11 Q. How long were you a tender puller?</p> <p>12 A. I pull tenders now sometimes if they</p> <p>13 need me.</p> <p>14 Q. Since you started at the plant, have</p> <p>15 you always worked in the debone department?</p> <p>16 A. Yes.</p> <p>17 Q. Have you always worked either on or</p> <p>18 around the debone line?</p> <p>19 A. Right.</p> <p>20 Q. Have you always worn the same kind of</p> <p>21 outer garments and supplies and PPE?</p> <p>22 A. PPE every day, yes.</p> <p>23 Q. The stuff that you wear, has it been</p>  |
| <p style="text-align: right;">11</p> <p>1 Q. How long have you had this job that</p> <p>2 you have described for me?</p> <p>3 A. I had that ever since they put the</p> <p>4 skin pull over -- I can't really. It's been over</p> <p>5 some years, about two or three years.</p> <p>6 Q. What job did you do before this job?</p> <p>7 A. I worked on the line.</p> <p>8 Q. On the debone line?</p> <p>9 A. Uh-huh.</p> <p>10 Q. Cutting chicken?</p> <p>11 A. Mostly pulling breasts and pulling</p> <p>12 tenders.</p> <p>13 Q. You were a tender puller?</p> <p>14 A. Uh-huh.</p> <p>15 Q. And how long did you do that?</p> <p>16 A. I don't know, I really don't.</p> <p>17 Q. What were you doing when you first</p> <p>18 went to work there when CP had it?</p> <p>19 A. I was at the end of the line, making</p> <p>20 sure the bones and skin off the breast meat.</p> <p>21 Q. So you were a --</p> <p>22 A. Inspector.</p> <p>23 Q. And how long did you do that?</p>  | <p style="text-align: right;">13</p> <p>1 pretty much the same from the time you started to</p> <p>2 today?</p> <p>3 A. No, they done changed. Because we</p> <p>4 used to couldn't wear our boots out. Now we wear</p> <p>5 them out.</p> <p>6 Q. But the things you actually wear, has</p> <p>7 that remained pretty much unchanged?</p> <p>8 A. Yes, it's still the same.</p> <p>9 Q. You understand that you are a party</p> <p>10 to this lawsuit?</p> <p>11 A. Yes.</p> <p>12 Q. How did you find out about the</p> <p>13 lawsuit?</p> <p>14 A. I can't remember.</p> <p>15 Q. What's your understanding about what</p> <p>16 your claim is in this lawsuit?</p> <p>17 A. Like we be working, right? Like I'm</p> <p>18 at the end of the line, and when the line stop at</p> <p>19 ten -- I say 10:15. When it get down there to me,</p> <p>20 it probably like 10:25, but all of us on the same</p> <p>21 break, right? All of us got to come back at the</p> <p>22 same time. But me I'm going out at 10:30, half of</p> <p>23 the people gone and sitting down eating when I'm</p> |



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| <p style="text-align: right;">14</p> <p>1 back -- before I get out.</p> <p>2 Q. So your claim is for lost break time?</p> <p>3 A. Yes.</p> <p>4 Q. What shift do you work?</p> <p>5 A. First shift.</p> <p>6 Q. Have you always worked first shift?</p> <p>7 A. Yes.</p> <p>8 Q. And what are the hours that you work,</p> <p>9 from when to when?</p> <p>10 A. It's supposed to be from 7:30 to</p> <p>11 4:30.</p> <p>12 Q. 7:30 a.m. to 4:30 p.m.?</p> <p>13 A. Yes.</p> <p>14 Q. Are you a member of the Union?</p> <p>15 A. Yes.</p> <p>16 Q. How long have you been a Union</p> <p>17 member?</p> <p>18 A. Ever since the Union been.</p> <p>19 Q. So since CP days? You've been a</p> <p>20 member of the Union since CP had the --</p> <p>21 A. Whenever they started, I've been in</p> <p>22 it.</p> <p>23 Q. Have you ever been a Union steward?</p> | <p style="text-align: right;">16</p> <p>1 this lawsuit was discussed when there were other</p> <p>2 employees around?</p> <p>3 A. Well, no, I went -- when -- I don't</p> <p>4 understand that.</p> <p>5 Q. Have you ever gone to a hotel where</p> <p>6 there were other employees and met with other</p> <p>7 employees and the lawsuit was discussed?</p> <p>8 A. Like employees that I work with?</p> <p>9 Q. Yes, ma'am.</p> <p>10 A. No.</p> <p>11 Q. You don't recall any meetings where</p> <p>12 this lawsuit was discussed that you attended?</p> <p>13 A. No, I don't.</p> <p>14 Q. What sort of clothing, PPE -- however</p> <p>15 you want to describe it -- are you supposed to put</p> <p>16 on to do your job every day?</p> <p>17 A. Every day I put on ear plugs, and I</p> <p>18 put on my hair net -- or I come in, then when I get</p> <p>19 in, I have to have on my boots before I get in, and</p> <p>20 once I come in the door, I have to make sure they</p> <p>21 sanitized, and then I have to go and put on my</p> <p>22 smock and my sleeves and my apron and my gloves --</p> <p>23 my cotton gloves -- cotton liners -- and my blue</p> |
| <p style="text-align: right;">15</p> <p>1 A. No.</p> <p>2 Q. Have you ever held any position with</p> <p>3 the Union?</p> <p>4 A. No.</p> <p>5 Q. You have never been on any</p> <p>6 negotiating committee?</p> <p>7 A. No.</p> <p>8 Q. Have you ever attended any Union</p> <p>9 meetings?</p> <p>10 A. No.</p> <p>11 Q. Did you review any documents before</p> <p>12 you came here today to prepare yourself?</p> <p>13 A. Did I review --</p> <p>14 Q. Look at any papers?</p> <p>15 A. No.</p> <p>16 Q. Did you talk with anyone about your</p> <p>17 appearance here today besides your lawyers?</p> <p>18 A. No.</p> <p>19 Q. Have you ever attended any meetings</p> <p>20 with your co-employees where this lawsuit was</p> <p>21 discussed?</p> <p>22 A. What you mean?</p> <p>23 Q. Have you ever been to a meeting where</p>                      | <p style="text-align: right;">17</p> <p>1 gloves, and then wash -- make sure they washed</p> <p>2 down.</p> <p>3 Q. So the things that you wear are your</p> <p>4 ear plugs, your hair net, and your boots?</p> <p>5 A. Yes.</p> <p>6 Q. And you are permitted to put those on</p> <p>7 before you go into the production area, right?</p> <p>8 A. Yes.</p> <p>9 Q. Are you permitted to wear your boots</p> <p>10 from home?</p> <p>11 A. Yes.</p> <p>12 Q. Now?</p> <p>13 A. Now, I am.</p> <p>14 Q. At one point in time, though, you</p> <p>15 weren't allowed to do that, right?</p> <p>16 A. No.</p> <p>17 Q. And that changed at some point when</p> <p>18 Equity took over?</p> <p>19 A. I don't know. I really don't.</p> <p>20 Q. What about your ear plugs, can you</p> <p>21 wear those from home?</p> <p>22 A. No -- I mean, yes, I guess if you</p> <p>23 want to, but I don't. Most of them put them on at</p>  |

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| <p style="text-align: right;">18</p> <p>1 work.</p> <p>2 Q. So let me run down this list to make</p> <p>3 sure I have everything. Ear plugs, hair net,</p> <p>4 boots, smock, plastic sleeves, apron, gloves, and</p> <p>5 white liners?</p> <p>6 A. And the blue gloves.</p> <p>7 Q. Is that list complete?</p> <p>8 A. For me.</p> <p>9 Q. Do other people wear other things?</p> <p>10 A. Yes, they wear different stuff than</p> <p>11 that.</p> <p>12 Q. Because they do other jobs?</p> <p>13 A. Right.</p> <p>14 Q. What do other people wear that you</p> <p>15 don't wear?</p> <p>16 A. Well, they have to have the arm</p> <p>17 guard; they have to have their safety -- another</p> <p>18 chain glove.</p> <p>19 Q. Does your job require you to use a</p> <p>20 knife or scissors?</p> <p>21 A. No, not now because the doctor -- I</p> <p>22 got tendinitis in my right hand.</p> <p>23 Q. When you were a tender puller, did</p> | <p style="text-align: right;">20</p> <p>1 A. Yes.</p> <p>2 Q. Do you pick these items up at the</p> <p>3 supply room ever?</p> <p>4 A. Yes, you have to go to the supply</p> <p>5 room and get them.</p> <p>6 Q. Which of these items do you get every</p> <p>7 day?</p> <p>8 A. My smock.</p> <p>9 Q. Anything else?</p> <p>10 A. Yes, on Monday we get everything.</p> <p>11 Some days I have to go back and get like gloves.</p> <p>12 Most of the time I have to go get gloves every</p> <p>13 day.</p> <p>14 Q. Do you have a locker at the place?</p> <p>15 A. I did, yes.</p> <p>16 Q. You do?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Do you store things overnight in the</p> <p>19 locker?</p> <p>20 A. Do I store stuff?</p> <p>21 Q. Yes.</p> <p>22 A. No. I go back there and get my --</p> <p>23 like I have my purse and stuff. Yes, your food and</p>   |
| <p style="text-align: right;">19</p> <p>1 you have to use a knife?</p> <p>2 A. No.</p> <p>3 Q. Did you ever use a knife on any job</p> <p>4 that you had there?</p> <p>5 A. Yes.</p> <p>6 Q. And what job were you doing when you</p> <p>7 used a knife?</p> <p>8 A. I was deboning. I just debone -- I</p> <p>9 used the scissors.</p> <p>10 Q. When did you do that?</p> <p>11 A. What, debone?</p> <p>12 Q. Yes.</p> <p>13 A. It's been a while.</p> <p>14 Q. Was it back when CP had the place?</p> <p>15 A. Yes, CP had it. And since Equity had</p> <p>16 it too, the scissors.</p> <p>17 Q. So since Equity has taken over, you</p> <p>18 have spent some time on the line?</p> <p>19 A. Yes.</p> <p>20 Q. Cutting up chicken?</p> <p>21 A. Yes, pulling breasts.</p> <p>22 Q. Is it your understanding that the</p> <p>23 items that you identified for me are required?</p>  | <p style="text-align: right;">21</p> <p>1 stuff, I guess if you want to store it, you can --</p> <p>2 not overnight, you put it in there.</p> <p>3 Q. At the end of the day, do you take</p> <p>4 your sleeves and your apron home?</p> <p>5 A. Yes.</p> <p>6 Q. These items that you told me that you</p> <p>7 wear, when do you put them on?</p> <p>8 A. Which one? I put my hair nets and my</p> <p>9 ear plugs on before I go in.</p> <p>10 Q. Before you go onto the production</p> <p>11 floor?</p> <p>12 A. Uh-huh.</p> <p>13 Q. Yes?</p> <p>14 A. Yes.</p> <p>15 Q. And you already have your boots on,</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. And once you are on the production</p> <p>19 floor, that's when you put on your smock, your</p> <p>20 sleeves, and your apron, and your gloves?</p> <p>21 A. Uh-huh.</p> <p>22 Q. If your shift starts at 7:30 a.m.,</p> <p>23 what time do you go into the production floor in</p> |

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| <p style="text-align: right;">22</p> <p>1 order to put these things on?</p> <p>2 A. You got to get in there by 7:25.</p> <p>3 Q. 7:25?</p> <p>4 A. Yes, sir, to get it on, to be ready</p> <p>5 -- you know, you got to be in there early enough to</p> <p>6 have it on.</p> <p>7 Q. What time do you --</p> <p>8 A. Do I go?</p> <p>9 Q. Yes.</p> <p>10 A. Most of the time I try to get in</p> <p>11 there. It all depends -- if I clock in at -- I</p> <p>12 have to go up and get my smock, the stuff. And it</p> <p>13 all depends on if the people there cleaning up, we</p> <p>14 have to wait. And then when they say "come in", we</p> <p>15 have to be ready to go in.</p> <p>16 Q. So it varies because sometimes the</p> <p>17 room might not be cleaned by the sanitation people?</p> <p>18 A. Yes.</p> <p>19 Q. When the room is ready for you and</p> <p>20 you're going to start at 7:30, what time do you</p> <p>21 usually go into that room to put on your clothes</p> <p>22 and your PPE?</p> <p>23 A. I try to be in there at least before</p> | <p style="text-align: right;">24</p> <p>1 Q. You indicated to me that you have to</p> <p>2 stay while the other people go on break, correct?</p> <p>3 A. Well, the line start breaking down at</p> <p>4 10:15. By the time it gets down there to me, it be</p> <p>5 way after.</p> <p>6 Q. What time do you get to leave your</p> <p>7 job post?</p> <p>8 A. Probably about sometime like --</p> <p>9 sometime I come out, it be like 10:30.</p> <p>10 Q. And what time do you get in the break</p> <p>11 room?</p> <p>12 A. I really -- I really can't say, you</p> <p>13 know, because I look at the clock. I got to be the</p> <p>14 last one there and make sure they get the combos</p> <p>15 and stuff, then I got to wash down, and do that.</p> <p>16 Q. So sometimes you don't leave the</p> <p>17 production line until 10:30, is that what you're</p> <p>18 telling me?</p> <p>19 A. Right.</p> <p>20 Q. And are you in the break room at</p> <p>21 10:30?</p> <p>22 A. No.</p> <p>23 Q. Takes you some time to do what you</p> |
| <p style="text-align: right;">23</p> <p>1 about -- I'd say about 25 after seven. It all</p> <p>2 depends.</p> <p>3 Q. When you used the scissors on the</p> <p>4 line, were the scissors provided to you on the</p> <p>5 line?</p> <p>6 A. Yes.</p> <p>7 Q. You didn't have to go pick them up?</p> <p>8 A. No, somebody bring them to you.</p> <p>9 Q. Did you ever use a knife?</p> <p>10 A. Yes, I did.</p> <p>11 Q. You didn't have to go pick that knife</p> <p>12 up anywhere, did you?</p> <p>13 A. No.</p> <p>14 Q. That was provided to you on the line?</p> <p>15 A. Yes.</p> <p>16 Q. How many breaks do you get in a day?</p> <p>17 A. Two.</p> <p>18 Q. How long are they?</p> <p>19 A. They say 30 minutes.</p> <p>20 Q. Your shift starts at 7:30, correct?</p> <p>21 A. Yes.</p> <p>22 Q. When do you take your first break?</p> <p>23 A. Supposed to start at 10:15.</p>   | <p style="text-align: right;">25</p> <p>1 need to do?</p> <p>2 A. Right.</p> <p>3 Q. What time then do you actually get</p> <p>4 into the break room?</p> <p>5 A. You know what, I really ain't pay it</p> <p>6 no attention.</p> <p>7 Q. I assume though that you pay</p> <p>8 attention about what time you have to be back?</p> <p>9 A. Yes, I have to be back when everybody</p> <p>10 else come back.</p> <p>11 Q. And what time is that?</p> <p>12 A. 10:45.</p> <p>13 Q. How do you get to work in the</p> <p>14 morning?</p> <p>15 A. I ride with someone, carpool with</p> <p>16 someone.</p> <p>17 Q. Do you have to spend any time passing</p> <p>18 through any security procedures?</p> <p>19 A. Yes, I do. I do, because I don't</p> <p>20 have no sticker on my car.</p> <p>21 Q. So what do you have to do?</p> <p>22 A. I have to go through the guard shack,</p> <p>23 stop, and show my ID, and they ask me where I'm</p>   |

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| <p style="text-align: right;">26</p> <p>1 going, then they give me a little pad -- a little</p> <p>2 thing -- tag, and I put it in my window.</p> <p>3 Q. And when you leave at night, you have</p> <p>4 to stop and hand that tag back in?</p> <p>5 A. Yes.</p> <p>6 Q. Why haven't you gotten a sticker for</p> <p>7 your car?</p> <p>8 A. Well, the one I did have, he tore up.</p> <p>9 Q. Who tore up?</p> <p>10 A. My car. My car is not fixed.</p> <p>11 Q. So why haven't you gotten a sticker?</p> <p>12 A. Because they said I had to pay \$10.</p> <p>13 But the girl I ride with -- if you lose your</p> <p>14 sticker, you have to go through the guard shack --</p> <p>15 I mean, go stop and wait, and I ain't been back up</p> <p>16 there. They said I had to pay \$10, but I got one.</p> <p>17 But I think they got to take it off or something,</p> <p>18 so it didn't go through the red tape.</p> <p>19 Q. Do the people that have stickers on</p> <p>20 their cars, do they just drive right through?</p> <p>21 A. Yes.</p> <p>22 Q. And they drive right out at the end</p> <p>23 of the day?</p> | <p style="text-align: right;">28</p> <p>1 A. I got to get there about 7:10, or</p> <p>2 seven after seven.</p> <p>3 Q. And tell me what you do from the time</p> <p>4 you get there until you go on to the production</p> <p>5 floor.</p> <p>6 A. First thing I do I go and get my</p> <p>7 smock, then sometimes I come back and clock, then</p> <p>8 sometimes I clock before I go. Then I go -- you</p> <p>9 got to go every day to get your smock, so you got</p> <p>10 to be there to get your smock, because there is a</p> <p>11 lot of us. And then you need gloves, you got to</p> <p>12 wait in line to get your gloves and stuff.</p> <p>13 Q. How long is the line?</p> <p>14 A. On Monday it's way back there because</p> <p>15 everybody is trying to get it.</p> <p>16 Q. What about on Tuesday, or Wednesday,</p> <p>17 or Thursday?</p> <p>18 A. Well, it's the same thing because</p> <p>19 somebody -- most people probably throw theirs away</p> <p>20 because they don't want to wash it, take it home</p> <p>21 and wash it. They go and get it every day.</p> <p>22 Q. At the present time you don't have to</p> <p>23 wash your smock, do you?</p> |
| <p style="text-align: right;">27</p> <p>1 A. What you mean?</p> <p>2 Q. They don't have to stop?</p> <p>3 A. Yes, they have to stop because I'm</p> <p>4 getting my tag back.</p> <p>5 Q. I'm talking about other people, not</p> <p>6 the people that don't have -- the people that have</p> <p>7 stickers that don't have to get tags, they just</p> <p>8 drive on and drive off, don't they?</p> <p>9 A. Yes, sometimes. But the line is like</p> <p>10 I'm over here to get my sticker, so I got to ease</p> <p>11 out, then they got to slow up for me to come out</p> <p>12 sometimes.</p> <p>13 Q. Do you hold up the line?</p> <p>14 A. Yes, because they got to wait until I</p> <p>15 come out.</p> <p>16 Q. Have you ever been searched to get</p> <p>17 into that plant?</p> <p>18 A. I don't think so, no.</p> <p>19 Q. Have you ever been searched when you</p> <p>20 left the plant?</p> <p>21 A. Huh-uh.</p> <p>22 Q. What time do you usually get to the</p> <p>23 plant in the morning?</p>   | <p style="text-align: right;">29</p> <p>1 A. Yes, not my smock. My apron, yes.</p> <p>2 Q. So what's the longest you've ever</p> <p>3 waited in the supply line?</p> <p>4 A. I ain't never timed it, you know, but</p> <p>5 I would have waited until they get through and put</p> <p>6 everybody else.</p> <p>7 Q. Can you put an approximation on it?</p> <p>8 A. Depend on how fast it go. I'd say</p> <p>9 from five-to-six minutes maybe.</p> <p>10 Q. Is that the average?</p> <p>11 A. Depends on how long the line is. I</p> <p>12 can't really say.</p> <p>13 Q. In the ten years that you have worked</p> <p>14 there, have you ever waited in that line as long as</p> <p>15 an hour?</p> <p>16 A. No.</p> <p>17 Q. Do you know anyone who has?</p> <p>18 A. No, I don't know nobody that waited</p> <p>19 no hour.</p> <p>20 Q. You get your supplies, and then where</p> <p>21 do you go, to the break room?</p> <p>22 A. Me, uh-huh, I go to the break room.</p> <p>23 Q. And that's the debone break room?</p>  |

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| <p style="text-align: right;">30</p> <p>1 A. Debone break room.</p> <p>2 Q. And what do you do there?</p> <p>3 A. I get ready to put on my ear plugs</p> <p>4 and my hair nets and get ready to go in the debone</p> <p>5 area.</p> <p>6 Q. Then what do you do?</p> <p>7 A. When I go into debone area, I make</p> <p>8 sure my boots is washed off.</p> <p>9 Q. We are going to get to that in a</p> <p>10 second. But after you go back to the break area</p> <p>11 after getting your smock, is there some waiting</p> <p>12 time then?</p> <p>13 A. Yes.</p> <p>14 Q. And what do you --</p> <p>15 A. Got other people up ahead of you.</p> <p>16 You already got people, you know, because there's</p> <p>17 so many of us.</p> <p>18 Q. But after you go back to the break</p> <p>19 room, is there some time for you to sit down and</p> <p>20 talk and use the vending machines if you want?</p> <p>21 A. If you come early enough.</p> <p>22 Q. Is there time for you to do that?</p> <p>23 A. Yes, sometimes, not often.</p>  | <p style="text-align: right;">32</p> <p>1 chicken be coming. And I have to be there in that</p> <p>2 -- you got to be down there -- you got to be in --</p> <p>3 they say you got to be in your area at 7:30, and</p> <p>4 either time I don't.</p> <p>5 Q. In order to get into the production</p> <p>6 floor, you go --</p> <p>7 A. You got to be --</p> <p>8 MR. FRY: You have to wait until</p> <p>9 I finish my question. Remember, we're not going to</p> <p>10 talk over one another.</p> <p>11 THE DEPONENT: Okay, yes.</p> <p>12 Q. (Mr. Fry) In order to get into the</p> <p>13 production floor, you have to first go through two</p> <p>14 double doors, and you go into where your boots are</p> <p>15 sanitized?</p> <p>16 A. Uh-huh.</p> <p>17 Q. And what happens where your boots are</p> <p>18 sanitized? What do you have to do there?</p> <p>19 A. Sometimes it's not enough sanitizer</p> <p>20 on the floor, you got to mash that button and</p> <p>21 sanitize your shoes, your boots.</p> <p>22 Q. What if there is enough stuff on the</p> <p>23 floor, what do you have to do?</p> |
| <p style="text-align: right;">31</p> <p>1 Q. Do some people come before you to</p> <p>2 work?</p> <p>3 A. Yes, some people come like 30 minutes</p> <p>4 before, you know, and get --</p> <p>5 Q. Do some people come to work after you</p> <p>6 get there?</p> <p>7 A. Yes.</p> <p>8 Q. So people come there at all minutes</p> <p>9 of the day?</p> <p>10 A. Yes.</p> <p>11 Q. Prior to the shift, correct?</p> <p>12 A. Uh-huh.</p> <p>13 Q. So what time do you try and go into</p> <p>14 the production floor if the room is ready?</p> <p>15 A. If the room is ready, I try to go in</p> <p>16 there at least, you know, by five or six or seven</p> <p>17 minutes, you know, to give me time -- because one</p> <p>18 time I had got in that situation that I go in there</p> <p>19 about 25 minutes after -- I be late, you know. You</p> <p>20 can't get there late because if you do, somebody</p> <p>21 going to write you up. And sometimes I be late</p> <p>22 getting to the line because I don't have my gloves,</p> <p>23 because I done went in the line, you know, the</p> | <p style="text-align: right;">33</p> <p>1 A. Most of the time I have to just make</p> <p>2 sure mine are rinsed off. I stop and do that.</p> <p>3 Q. How much time does that take?</p> <p>4 A. I don't know.</p> <p>5 Q. Less than a minute?</p> <p>6 A. Maybe. I don't really know.</p> <p>7 Q. So then you go in and you put on your</p> <p>8 supplies?</p> <p>9 A. Uh-huh.</p> <p>10 Q. How long does that take you, just to</p> <p>11 put them on?</p> <p>12 A. It take me anywhere from about seven</p> <p>13 to eight minutes because --</p> <p>14 Q. And then you have to rinse them off?</p> <p>15 A. Yes, I have to go back and try to get</p> <p>16 in line, because you have to try to be a little</p> <p>17 early to do anything. You have to make sure</p> <p>18 there's -- you got the sanitize soap and the stuff</p> <p>19 over there.</p> <p>20 Q. And then you go to work?</p> <p>21 A. Yes.</p> <p>22 Q. We talked about the times when you go</p> <p>23 and come back from break, but tell me what you have</p>  |

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| <p style="text-align: right;">34</p> <p>1 to do with your equipment and PPE when you go on to</p> <p>2 break?</p> <p>3 A. First thing I have to do is go and</p> <p>4 wash it down because I have a lot of chicken on</p> <p>5 me. Wash it down real good, and then take it off,</p> <p>6 you know, dry it off, and then hang it up.</p> <p>7 Q. How long does that take?</p> <p>8 A. I'd say anywhere from -- I really --</p> <p>9 I really can't say because it depends on how much</p> <p>10 grease. I got to have hot water to try to get the</p> <p>11 stuff off.</p> <p>12 Q. Does everybody wash before they go on</p> <p>13 break?</p> <p>14 A. I can't answer -- I don't know that.</p> <p>15 I just -- what I do -- some of them do it when they</p> <p>16 -- they have to be on wash before they come back on</p> <p>17 that line.</p> <p>18 Q. And am I correct that you just do</p> <p>19 everything in reverse when you come off break?</p> <p>20 A. Right, you have to do the same thing.</p> <p>21 Q. Go through and sanitize your boots,</p> <p>22 put the stuff back on, and get back on the line?</p> <p>23 A. Right.</p> | <p style="text-align: right;">36</p> <p>1 all them -- our combos for first shift. Then I got</p> <p>2 to walk down, and I wash down, then I go and clean,</p> <p>3 then I go in the break area -- but now everybody in</p> <p>4 the break area when I go in there at 4:30. They</p> <p>5 say 4:30 on the line "everybody off the line", but</p> <p>6 when I go in the break area, I done washed down --</p> <p>7 ain't nobody went out the door. But when I goes in</p> <p>8 there, everybody is standing in line.</p> <p>9 Q. Why are they standing --</p> <p>10 A. To clock out.</p> <p>11 Q. How long does it take you to get from</p> <p>12 where you're working to into the break room?</p> <p>13 A. I really -- how long it take?</p> <p>14 Q. How long does it take you, yes, to go</p> <p>15 over, wash down, take your stuff off, walk out</p> <p>16 those doors, and go to the break room? How long</p> <p>17 does that take?</p> <p>18 A. At the end of the day?</p> <p>19 Q. Yes, ma'am.</p> <p>20 A. I'd say it takes it about -- for me</p> <p>21 by the time the line go down --</p> <p>22 MR. STEENSLAND: He's not asking</p> <p>23 that.</p> |
| <p style="text-align: right;">35</p> <p>1 Q. How long does that take?</p> <p>2 A. What you mean, how much?</p> <p>3 Q. How many minutes does it take you to</p> <p>4 get back in a position to start working again?</p> <p>5 A. You better try to be back in there</p> <p>6 before your time, because they going to write you</p> <p>7 up if you don't.</p> <p>8 Q. I understand. How long does it take</p> <p>9 you from the time you leave the break room until</p> <p>10 you are at your position?</p> <p>11 A. Anywhere from -- this is a guess</p> <p>12 now -- I don't know.</p> <p>13 Q. I don't want you to guess. If you</p> <p>14 don't know, you don't know.</p> <p>15 A. I don't know.</p> <p>16 Q. That's fair enough. We're at the end</p> <p>17 of the day now. It's quitting time. What do you</p> <p>18 do?</p> <p>19 A. What do I do?</p> <p>20 Q. Yes, to get out.</p> <p>21 A. I got to make sure that they got the</p> <p>22 combos gone from night shift because night shift,</p> <p>23 they ready to go on, and then they come and move</p>   | <p style="text-align: right;">37</p> <p>1 A. I don't know. I have to guess. I</p> <p>2 don't know.</p> <p>3 Q. (Mr. Fry) But after you do that,</p> <p>4 then you have to clock out. And you're telling me</p> <p>5 there's a line there?</p> <p>6 A. Uh-huh.</p> <p>7 Q. How quickly does that line move?</p> <p>8 A. The clock in there on debone -- they</p> <p>9 said 4:30, but the clock in there where we clock</p> <p>10 out at, it probably be like -- we have to wait</p> <p>11 about three about four minutes before we clock</p> <p>12 out -- or four or five, I guess.</p> <p>13 MR. STEENSLAND: Don't guess.</p> <p>14 A. I don't know. I don't know.</p> <p>15 Q. (Mr. Fry) Ms. Shaw, what is your</p> <p>16 understanding as to how the company keeps track of</p> <p>17 your time in order to pay you right?</p> <p>18 A. Now, what I am thinking -- this is</p> <p>19 what I'm thinking -- by my time clock, when I hit</p> <p>20 the clock.</p> <p>21 Q. When you swipe in?</p> <p>22 A. When I swipe in.</p> <p>23 Q. Have you ever heard the phrase Master</p>  |



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| <p style="text-align: right;">38</p> <p>1 Card?</p> <p>2 A. Yes, I heard that.</p> <p>3 Q. And does it have any meaning to you?</p> <p>4 Do you understand what that is?</p> <p>5 A. I thought they clock -- they said</p> <p>6 they clock the line out after we clock out.</p> <p>7 Q. What's your understanding of Master</p> <p>8 Card time?</p> <p>9 A. The supervisor got the Master Card.</p> <p>10 Everybody is supposed to be on clock-out before</p> <p>11 they clock it, right? That is my understanding. I</p> <p>12 don't know what they do. But my understanding --</p> <p>13 my understanding was is if I clock out at 5:35,</p> <p>14 they supposed to pay me at 5:35, so I don't know.</p> <p>15 Q. Do you pay attention to the time that</p> <p>16 you actually clock out?</p> <p>17 A. Yes, now I do because the line is --</p> <p>18 you ain't going to clock out until 4:30 now the way</p> <p>19 they got it. Because they got everybody in there</p> <p>20 hold up at -- like I say, the line -- we off the</p> <p>21 line -- the line is supposed to be through at</p> <p>22 4:30. But when I go in there to clock my card,</p> <p>23 everybody, so there way after four.</p> | <p style="text-align: right;">40</p> <p>1 wait until it get 4:30 to clock out.</p> <p>2 Q. So sometimes you're not allowed to</p> <p>3 clock out until 4:30, is that what you're telling</p> <p>4 me?</p> <p>5 A. No, they ain't what I'm telling you.</p> <p>6 I'm telling you it be 4:30 on the line. At 4:30</p> <p>7 when I come out the door out of debone area, it's</p> <p>8 supposed to be 4:30. Only thing I'm supposed to do</p> <p>9 when I come out is clock out, but I can't do that.</p> <p>10 Q. Because there's a line there, right?</p> <p>11 A. No, because they are waiting on 4:30</p> <p>12 on our clock-out card.</p> <p>13 Q. What time then do you actually clock</p> <p>14 out? Do you look at the clock when you clock out?</p> <p>15 A. They will say 4:30 everybody start</p> <p>16 clocking.</p> <p>17 MR. STEENSLAND: That's not the</p> <p>18 question he asked. Take your time and listen to</p> <p>19 the question he asked.</p> <p>20 Q. (Mr. Fry) When you clock out, you</p> <p>21 can tell what actual time the clock says, correct?</p> <p>22 A. Yes, you can.</p> <p>23 Q. What time or times do you remember</p> |
| <p style="text-align: right;">39</p> <p>1 Q. What times do you recollect</p> <p>2 clocking-out recently?</p> <p>3 A. It's going to be 4:30 because that</p> <p>4 way the clock fixed.</p> <p>5 Q. Your shift ends at 4:30?</p> <p>6 A. Right, that's when it ends.</p> <p>7 Q. And you clock out in the debone room</p> <p>8 at sometime after that, right?</p> <p>9 A. Yes, I guess so.</p> <p>10 Q. Can you --</p> <p>11 MR. STEENSLAND: Don't guess.</p> <p>12 A. I don't know.</p> <p>13 Q. (Mr. Fry) Can you recall any recent</p> <p>14 days, the time at which you actually clocked out in</p> <p>15 the debone room at the end of the day?</p> <p>16 MR. STEENSLAND: Objection.</p> <p>17 Asked and answered. You can answer that.</p> <p>18 A. Do I -- it going to be -- like I</p> <p>19 said, they got it set up. It's going to be 4:30</p> <p>20 either way it goes because, I mean, they are</p> <p>21 waiting until 4:30 come.</p> <p>22 Q. (Mr. Fry) You've --</p> <p>23 A. On the clock I clock out, I got to</p>  | <p style="text-align: right;">41</p> <p>1 swiping out at the end of the day?</p> <p>2 A. About --</p> <p>3 MR. STEENSLAND: Objection.</p> <p>4 Asked and answered. You can answer it.</p> <p>5 A. 4:30.</p> <p>6 Q. (Mr. Fry) About 4:30?</p> <p>7 A. 4:30 or 4:31.</p> <p>8 Q. That's the time you actually clock</p> <p>9 out?</p> <p>10 A. Right.</p> <p>11 Q. Have you ever had any problems with</p> <p>12 your paycheck where you thought it might be short</p> <p>13 or inaccurate?</p> <p>14 A. Yes, but they -- yes.</p> <p>15 Q. Did you go to your supervisor about</p> <p>16 that?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Say yes?</p> <p>19 A. Yes.</p> <p>20 Q. And has your supervisor fixed things</p> <p>21 for you?</p> <p>22 A. Yes, she fixed it.</p> <p>23 Q. Do you keep track of the hours you</p>   |



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| <p style="text-align: right;">42</p> <p>1 spend in the plant in any way with notes or</p> <p>2 notebook or anything?</p> <p>3 A. No, no.</p> <p>4 Q. Do you know anybody that does?</p> <p>5 A. No.</p> <p>6 Q. Have you ever been asked to stay and</p> <p>7 work overtime?</p> <p>8 A. Uh-huh, yes.</p> <p>9 Q. And did you get time-and-a-half for</p> <p>10 that?</p> <p>11 A. Yes.</p> <p>12 Q. Have you ever had any problems with</p> <p>13 the overtime pay?</p> <p>14 A. No.</p> <p>15 Q. Have you made any calculations as to</p> <p>16 how much money you think you are owed in this</p> <p>17 lawsuit?</p> <p>18 A. No, but I feel that they owe me</p> <p>19 something.</p> <p>20 Q. Have you ever filed a grievance with</p> <p>21 the Union?</p> <p>22 A. I don't get what you said. Have I</p> <p>23 ever what?</p>   | <p style="text-align: right;">44</p> <p>1 my 30-minute break because I'm in there, and some</p> <p>2 of the people at the head of the line, they might</p> <p>3 be already out. I'm still in there working.</p> <p>4 Q. So are you telling me that you recall</p> <p>5 talking to Jackie about your breaks, your break</p> <p>6 time?</p> <p>7 A. It might have been Jackie, and then</p> <p>8 it could have been -- I just talked to her -- it's</p> <p>9 just a lot of talk about, you know.</p> <p>10 Q. I think my original question was:</p> <p>11 Have you ever made any complaints to the Union</p> <p>12 about any of your hours or your time or your wages?</p> <p>13 A. Yes, I think I have. I think I have.</p> <p>14 Q. And what do you recollect?</p> <p>15 A. I don't think it never got back with</p> <p>16 me.</p> <p>17 Q. What did you complain to the Union</p> <p>18 about?</p> <p>19 A. About I wasn't getting my 30 minutes,</p> <p>20 and then they didn't -- because we have to be in</p> <p>21 there early to get our stuff -- our stuff we got</p> <p>22 work on, and stuff like that. You know, that was</p> <p>23 time. That was our time, and we had to -- always</p> |
| <p style="text-align: right;">43</p> <p>1 Q. Filed a grievance with the Union?</p> <p>2 A. What you mean?</p> <p>3 Q. Have you ever made a complaint to the</p> <p>4 Union about your working conditions or your wages?</p> <p>5 A. Yes, now I have did that. I have</p> <p>6 told, you know, I have talked to Jackie --</p> <p>7 MR. STEENSLAND: Ms. Shaw, he</p> <p>8 just asked you have you ever filed one or made a</p> <p>9 complaint, and the answer is what?</p> <p>10 THE DEPONENT: Yes.</p> <p>11 Q. (Mr. Fry) You talked to Jackie.</p> <p>12 That's Jackie Davis?</p> <p>13 A. I don't really know her last name.</p> <p>14 Q. So you talked to Jackie. To your</p> <p>15 understanding, did Jackie have a position in the</p> <p>16 Union?</p> <p>17 A. Yes.</p> <p>18 Q. And what did you talk with Jackie</p> <p>19 about?</p> <p>20 A. About the time, you know, how much --</p> <p>21 like I talk to her about I'm not getting 30-minute</p> <p>22 breaks. It might not be Jackie. Matter of fact, I</p> <p>23 done talked to somebody about it. I'm not getting</p> | <p style="text-align: right;">45</p> <p>1 in a rush, rush.</p> <p>2 Q. So you recollect making a complaint</p> <p>3 to somebody with the Union --</p> <p>4 A. Yes.</p> <p>5 Q. You have to wait until I finish. You</p> <p>6 recollect making some complaints to somebody that</p> <p>7 you understood had a position in the Union</p> <p>8 concerning your not getting paid for putting your</p> <p>9 equipment on and taking it off and for your break</p> <p>10 time?</p> <p>11 A. Yes.</p> <p>12 Q. And how many times did you make that</p> <p>13 complaint?</p> <p>14 A. I don't know.</p> <p>15 Q. More than once?</p> <p>16 A. Yes.</p> <p>17 Q. And do you recall when you made those</p> <p>18 complaints?</p> <p>19 A. No, I don't know.</p> <p>20 Q. Did it go back to the CP days?</p> <p>21 A. I don't know.</p> <p>22 Q. But it was sometime over the last ten</p> <p>23 years?</p>   |

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| <p style="text-align: right;">46</p> <p>1 A. Yes.</p> <p>2 Q. Was it earlier in those ten years or</p> <p>3 more later or in the middle?</p> <p>4 A. I don't know.</p> <p>5 Q. But you do remember making those</p> <p>6 complaints?</p> <p>7 A. Yes.</p> <p>8 Q. Have you ever been disciplined? Have</p> <p>9 you ever been written up for anything?</p> <p>10 A. I believe I've been written up for</p> <p>11 being late.</p> <p>12 Q. How many times?</p> <p>13 A. Maybe once.</p> <p>14 Q. Maybe once?</p> <p>15 A. Maybe.</p> <p>16 Q. I just have one more thing that I</p> <p>17 want to ask you about, and then you're done.</p> <p>18 MR. FRY: If you would mark this</p> <p>19 Shaw Exhibit 1.</p> <p>20 (WHEREUPON, a document was marked</p> <p>21 as Shaw Exhibit 1 and was</p> <p>22 retained by counsel.)</p> <p>23 Q. (Mr. Fry) Ms. Shaw, I'm showing you</p>   | <p style="text-align: right;">48</p> <p>1 Q. Do you recall where you signed it?</p> <p>2 A. I think over here at this hotel, I</p> <p>3 think.</p> <p>4 Q. The hotel?</p> <p>5 A. Yes.</p> <p>6 Q. Did you read it before you signed it?</p> <p>7 A. I had my daughter there to read it.</p> <p>8 Q. Pardon?</p> <p>9 A. My daughter was there to read it.</p> <p>10 Q. Can you read?</p> <p>11 A. Not that good -- some.</p> <p>12 Q. Did your daughter read it to you?</p> <p>13 A. Yes.</p> <p>14 Q. And did everything that she read to</p> <p>15 you sound accurate to you when she read it to you?</p> <p>16 A. Yes, I guess so, from the sound of</p> <p>17 it.</p> <p>18 Q. Do you know of any of your</p> <p>19 co-employees who have not joined in this lawsuit</p> <p>20 because they were afraid that the company would do</p> <p>21 something to them?</p> <p>22 A. Yes, I started out -- they said that</p> <p>23 we would be fired.</p>  |
| <p style="text-align: right;">47</p> <p>1 a document which we have marked Shaw Exhibit 1. It</p> <p>2 is a document that at the top says Declaration, and</p> <p>3 under Paragraph 1 is written "my name is", and then</p> <p>4 somebody wrote in there "Rose Shaw". Do you see</p> <p>5 that?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Could you take a minute and review</p> <p>8 this document for me and tell me when you're</p> <p>9 finished? I just have a few questions for you.</p> <p>10 (Plaintiff reviews Shaw Exhibit</p> <p>11 1.)</p> <p>12 Q. (Mr. Fry) Okay?</p> <p>13 A. Okay.</p> <p>14 Q. Is that your signature on Page 3?</p> <p>15 A. Yes.</p> <p>16 Q. Do you recall signing this?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall reading it before you</p> <p>19 signed it?</p> <p>20 A. Yes.</p> <p>21 Q. And do you recall that you signed it</p> <p>22 on or about February 24 of 2007?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">49</p> <p>1 Q. Who said that?</p> <p>2 A. I can't recall who said it, but</p> <p>3 that's what it was going around at work.</p> <p>4 Q. Listen to my question now. Do you</p> <p>5 know of anybody, any person, who has refused to</p> <p>6 join this lawsuit because they were afraid?</p> <p>7 A. Yes.</p> <p>8 MR. STEENSLAND: Objection.</p> <p>9 Asked and answered. Go ahead.</p> <p>10 A. Yes.</p> <p>11 Q. (Mr. Fry) How many?</p> <p>12 A. I don't know how many. But I know,</p> <p>13 yes.</p> <p>14 Q. Do you know of anybody that was</p> <p>15 threatened if they joined this lawsuit?</p> <p>16 A. What you mean by "threatened"?</p> <p>17 Q. Do you know of any instance where --</p> <p>18 and I'm asking if you know personally -- of any</p> <p>19 instance where somebody from the company actually</p> <p>20 threatened an employee --</p> <p>21 A. No.</p> <p>22 Q. You have to wait until I finish</p> <p>23 here. Do you know of any instance where an</p> |

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| <p style="text-align: right;">50</p> <p>1 employee was actually threatened by the company, a</p> <p>2 member of management of the company, that something</p> <p>3 bad would happen to them if they joined this</p> <p>4 lawsuit?</p> <p>5 A. No.</p> <p>6 MR. FRY: I don't have any more</p> <p>7 questions. Thank you.</p> <p>8 MR. STEENSLAND: Hang on,</p> <p>9 Ms. Shaw. I've got a few.</p> <p>10</p> <p>11 EXAMINATION BY MR. STEENSLAND:</p> <p>12 Q. Are you asking in this lawsuit to be</p> <p>13 paid for all the hours that you have worked for</p> <p>14 Equity Group?</p> <p>15 A. Yes.</p> <p>16 Q. When you've worked for Equity Group,</p> <p>17 was there a point in time when you had to take your</p> <p>18 smock home and wash it?</p> <p>19 A. I do it, yes.</p> <p>20 Q. Your smock?</p> <p>21 A. Yes -- not my smock, no.</p> <p>22 Q. Was there a point in time in the past</p> <p>23 when you had the take your smock home and wash it?</p>   | <p style="text-align: right;">52</p> <p>1 Q. Can you recall what company was</p> <p>2 running the plant when that occurred?</p> <p>3 A. The company that I'm working for now.</p> <p>4 Q. Equity?</p> <p>5 A. Right.</p> <p>6 Q. Was that the first day that Equity</p> <p>7 took over, they immediately changed it to where you</p> <p>8 put your smock in a bin?</p> <p>9 A. No.</p> <p>10 Q. And you were working for the company</p> <p>11 before Equity took over, right?</p> <p>12 A. Right.</p> <p>13 Q. So does that refresh your</p> <p>14 recollection as to if you ever had to take the</p> <p>15 smock home?</p> <p>16 A. Yes.</p> <p>17 Q. What did you do with the smock when</p> <p>18 you took it home?</p> <p>19 A. I washed it.</p> <p>20 Q. How many smocks did you have?</p> <p>21 A. Five.</p> <p>22 Q. Who issued them to you?</p> <p>23 A. At the supply room, I think. I don't</p>  |
| <p style="text-align: right;">51</p> <p>1 A. No.</p> <p>2 Q. Never have had to do that?</p> <p>3 A. Yes, but it wasn't -- it was not</p> <p>4 under Equity, but it was under somebody else.</p> <p>5 Q. Under CP?</p> <p>6 A. Yes.</p> <p>7 Q. Did you change jobs when Equity took</p> <p>8 over CP, or did you stay in the same job?</p> <p>9 A. Stayed in the same job.</p> <p>10 Q. When you were working that same job</p> <p>11 right when Equity took over, can you recall if you</p> <p>12 had to take your smock home with you?</p> <p>13 A. I believe we did. I ain't for sure,</p> <p>14 but I believe we did.</p> <p>15 Q. I'm not asking you to guess. I don't</p> <p>16 want you guessing at Gary's answers. I don't want</p> <p>17 you guessing at my answers either.</p> <p>18 A. I don't know.</p> <p>19 Q. Can you recall a point in time when</p> <p>20 you no longer had to take the smock home, and they</p> <p>21 let you put it in some type of bin there at the</p> <p>22 plant?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">53</p> <p>1 know.</p> <p>2 Q. The company?</p> <p>3 A. Yes.</p> <p>4 Q. We've gone through that -- that's not</p> <p>5 currently the policy, though, right? And at some</p> <p>6 point in time they began issuing you one every day?</p> <p>7 A. Right.</p> <p>8 Q. A new one?</p> <p>9 A. Right.</p> <p>10 Q. When you first get to the plant,</p> <p>11 Ms. Shaw, before you can put on your PPE, as it was</p> <p>12 referred to, do you have to sanitize your boots?</p> <p>13 A. Yes.</p> <p>14 Q. Is that the first thing you have to</p> <p>15 do before you can put on the equipment?</p> <p>16 A. Talking about the smock and the --</p> <p>17 Q. Yes, ma'am, before you can do that.</p> <p>18 A. Yes, you got to sanitize your boots.</p> <p>19 Q. With regards to the boots -- I'm</p> <p>20 going to take you back now -- was there at any</p> <p>21 point in time since you have worked with Equity or</p> <p>22 worked for Equity that you could not wear your</p> <p>23 boots home? Let me rephrase the question. Was</p> |

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| <p style="text-align: right;">54</p> <p>1 there a point in time where you had to take your<br/>2 boots off before you left?</p> <p>3 A. Yes, because one time we couldn't --<br/>4 you know, one time we couldn't even wear them<br/>5 outside.</p> <p>6 Q. I'm not asking you to guess. At some<br/>7 point in time --</p> <p>8 A. Some point in time. I don't know<br/>9 when, but we did.</p> <p>10 Q. At some point in time that changed<br/>11 where you could wear your boots home?</p> <p>12 A. Right.</p> <p>13 Q. When that policy changed, who owned<br/>14 the company?</p> <p>15 A. Equity.</p> <p>16 Q. Did that policy change the day that<br/>17 Equity bought the company?</p> <p>18 A. Huh-uh.</p> <p>19 Q. So does that refresh your<br/>20 recollection as to whether or not you could not<br/>21 wear your boots home at some point in time when<br/>22 Equity ran the group?</p> <p>23 A. Right.</p>  | <p style="text-align: right;">56</p> <p>1 Q. Ms. Shaw, do you remember the<br/>2 question I asked you? What's the last thing you<br/>3 have to do with your smock?</p> <p>4 A. Throw it in the thing when I come out<br/>5 the door.</p> <p>6 Q. In the thing -- is this the bin that<br/>7 you are referring to?</p> <p>8 A. The bin.</p> <p>9 Q. And where is the bin?</p> <p>10 A. On the outside of the debone area.</p> <p>11 Q. Outside of the production floor?</p> <p>12 A. Yes.</p> <p>13 Q. That is after you have washed<br/>14 everything down?</p> <p>15 A. Right.</p> <p>16 Q. What do you do after you put the<br/>17 smock in the bin?</p> <p>18 A. Then I go in the debone area, I get<br/>19 in line, and then I wait.</p> <p>20 Q. When you say "debone area", are you<br/>21 talking about the production area or the break<br/>22 room?</p> <p>23 A. Break room -- go in the break room.</p> |
| <p style="text-align: right;">55</p> <p>1 Q. Yes or right?</p> <p>2 A. Yes.</p> <p>3 Q. At the end of the day, your shift is<br/>4 over, before you swipe your card, what's the last<br/>5 thing that you do before you swipe your card?</p> <p>6 A. The last thing I do after I come out<br/>7 the debone area?</p> <p>8 Q. Yes, ma'am.</p> <p>9 A. I have to stand in line.</p> <p>10 Q. Before you stand in line.</p> <p>11 A. Wait on 4:30 on the card --</p> <p>12 Q. I don't want to go there again. I<br/>13 don't want to go back to this clocking in and out<br/>14 at 4:30. What do you have to do with your smock at<br/>15 the end of the day?</p> <p>16 A. I have to go -- before I leave<br/>17 debone, I have to go wash it off -- wash it on up,<br/>18 wash it off, and I get my sleeve and my gloves, all<br/>19 my stuff there -- except the smock. I have to<br/>20 throw the smock in the container outside. Then I<br/>21 put my stuff -- I take it home because I want to<br/>22 wear it back. I got to go wash it and bring it<br/>23 back for the next day.</p> | <p style="text-align: right;">57</p> <p>1 Q. And what happens in the break room?</p> <p>2 A. Then I wait until 4:30 and swipe my<br/>3 card and go home.</p> <p>4 Q. I don't think we quite touched on<br/>5 it. But both breaks that you get each day, before<br/>6 you can leave that production floor, you have to<br/>7 wash off all this equipment?</p> <p>8 A. Yes.</p> <p>9 Q. And then take it off?</p> <p>10 A. Take it off.</p> <p>11 Q. And the same thing for when you come<br/>12 back?</p> <p>13 A. Come back.</p> <p>14 Q. Is that right?</p> <p>15 A. Right.</p> <p>16 Q. When you're reporting back to your<br/>17 break, does everybody have to be back at the line<br/>18 at the same time?</p> <p>19 A. Yes.</p> <p>20 Q. Is that before the chickens start<br/>21 coming?</p> <p>22 A. You have to be back when your 45<br/>23 minutes up. What you mean before your chicken</p>             |

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| <p style="text-align: right;">58</p> <p>1 start?</p> <p>2 Q. When your 45 are minutes up, or when</p> <p>3 your 30 minutes are up?</p> <p>4 A. Well, yes, our 30 minutes.</p> <p>5 Q. Can you take your time and get back</p> <p>6 to the line right before the chicken gets to your</p> <p>7 position?</p> <p>8 A. No.</p> <p>9 Q. What would happen to you, if you</p> <p>10 know, if you did that?</p> <p>11 MR. FRY: Objection. You can</p> <p>12 answer the question.</p> <p>13 A. I get wrote up.</p> <p>14 Q. (Mr. Steensland) At any point in</p> <p>15 time during your employment with Equity, has anyone</p> <p>16 instructed you to do exercises or stretching before</p> <p>17 you start your work on the line?</p> <p>18 A. We used to do that now. Yes, they</p> <p>19 used to.</p> <p>20 Q. Was it an everyday thing?</p> <p>21 A. Yes, one time it was.</p> <p>22 Q. And who ran the plant or owned the</p> <p>23 plant when you can recall this occurring?</p> | <p style="text-align: right;">60</p> <p>1 everybody doing it and you chose not to do it?</p> <p>2 A. You going to get wrote up.</p> <p>3 MR. STEENSLAND: Nothing further.</p> <p>4 MR. FRY: Just a few questions.</p> <p>5</p> <p>6 EXAMINATION BY MR. FRY:</p> <p>7 Q. When did you do these exercises?</p> <p>8 A. When we got on the line.</p> <p>9 Q. Everybody is on the line, right?</p> <p>10 A. Right, you have to be on the line.</p> <p>11 Q. You have to be on the line.</p> <p>12 Everybody is fully dressed, correct?</p> <p>13 A. You have to. If they ain't, they</p> <p>14 come late.</p> <p>15 Q. But everybody is on the line,</p> <p>16 correct?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Now, is it true that the line starts</p> <p>19 running and it takes a little bit of time before</p> <p>20 the chicken gets there, and you can hear the line</p> <p>21 running?</p> <p>22 A. I can hear the line running.</p> <p>23 Q. Can you hear the line running before</p> |
| <p style="text-align: right;">59</p> <p>1 A. Equity.</p> <p>2 Q. Equity?</p> <p>3 A. Yes.</p> <p>4 Q. And who would instruct you to do</p> <p>5 these exercises or stretching?</p> <p>6 A. The supervisor.</p> <p>7 Q. I'm not asking you to demonstrate</p> <p>8 them because the record won't be able to reflect</p> <p>9 that. But can you tell us what the exercises or</p> <p>10 stretching involve as far as body parts?</p> <p>11 A. Wrists.</p> <p>12 Q. What are those things that are</p> <p>13 moving?</p> <p>14 A. Your fingers. And your arms, you</p> <p>15 have to do the arms.</p> <p>16 Q. Are those arm circles or something?</p> <p>17 A. Yes, like that. And then you had to</p> <p>18 do the neck.</p> <p>19 Q. Move your head around?</p> <p>20 A. Uh-huh.</p> <p>21 Q. And stretch your neck out?</p> <p>22 A. Yes.</p> <p>23 Q. What happens if your supervisor has</p>  | <p style="text-align: right;">61</p> <p>1 the chickens even come to the debone line?</p> <p>2 A. Yes, because the line -- I mean, yes,</p> <p>3 because it's a lot of noise.</p> <p>4 Q. You can hear it, but the chickens are</p> <p>5 there yet, right?</p> <p>6 A. No, most of the time we did exercise</p> <p>7 -- can I say this?</p> <p>8 MR. STEENSLAND: If it answers</p> <p>9 his question.</p> <p>10 MR. FRY: Sure.</p> <p>11 MR. STEENSLAND: Do you remember</p> <p>12 what his question was?</p> <p>13 THE DEPONENT: He said do</p> <p>14 everybody be on the line --</p> <p>15 A. Yes, they do.</p> <p>16 Q. (Mr. Fry) And you do these exercises</p> <p>17 while you are there on the line?</p> <p>18 A. Uh-huh.</p> <p>19 Q. And while you are waiting for the</p> <p>20 chicken to come, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And while you are doing those</p> <p>23 exercises, can you hear the lines running?</p>  |

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| <p style="text-align: right;">62</p> <p>1 A. Yes, you hear the line running. They</p> <p>2 going to run the line -- the line going to be on</p> <p>3 when we come in the debone area.</p> <p>4 Q. Okay. And how long of a period of</p> <p>5 time do you do these exercises for?</p> <p>6 A. I don't know. I don't really --</p> <p>7 because you have to do -- you want to know the</p> <p>8 honest truth -- most of the time we do those</p> <p>9 exercises when there is something wrong with the</p> <p>10 chiller or nothing coming. When the chicken come,</p> <p>11 we have to quit.</p> <p>12 Q. But you're waiting for the chickens</p> <p>13 to come when you're doing them, right?</p> <p>14 A. Right, when we're doing them.</p> <p>15 Q. How long of a period of time, how</p> <p>16 many minutes do you take doing the exercises?</p> <p>17 A. I really don't know.</p> <p>18 MR. FRY: That's all I have.</p> <p>19 Thank you.</p> <p>20 MR. STEENSLAND: Nothing</p> <p>21 further. Thank you, Ms. Shaw.</p> <p>22 12:43 p.m.</p> <p>23 *****</p> | <p style="text-align: right;">64</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008<br/>Commissioner and Notary Public</p> |
| <p style="text-align: right;">63</p> <p>1 FURTHER DEPONENT SAITH NOT</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |   |

**TAB 49**



1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
REBECCA H. SHORTER

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of REBECCA H.</p> <p>6 SHORTER may be taken before Cynthia M. Noakes,</p> <p>7 Court Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 22nd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:                   PAGE NUMBER:</p> <p>3   MR. GOULD                         6-17, 18-37</p> <p>4   MR. STEENSLAND                   17-18</p> <p>5</p> <p>6   EXHIBITS:</p> <p>7   (No exhibits were</p> <p>8   submitted to said deposition.)</p> <p>9</p> <p>10   Reporter's Certificate             38</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. M. JOHN STEENSLAND, III</p> <p>5       PARKMAN, ADAMS &amp; WHITE</p> <p>6       ATTORNEYS AT LAW</p> <p>7       739 West Main Street</p> <p>8       Dothan, Alabama 36301</p> <p>9       (334) 792-1900</p> <p>10</p> <p>11   ON BEHALF OF THE DEFENDANT:</p> <p>12       MR. MALCOLM S. GOULD</p> <p>13       PELINO &amp; LENTZ</p> <p>14       ATTORNEYS AT LAW</p> <p>15       One Liberty Place</p> <p>16       Thirty-Second Floor</p> <p>17       1650 Market Street</p> <p>18       Philadelphia, Pennsylvania 19103</p> <p>19       (215) 665-1540</p> <p>20</p> <p>21   *****</p> <p>22</p> <p>23</p> |

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified<br/> 2 Court Reporter of Eufaula, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at the Law Offices of WILLIAMS,<br/> 7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange<br/> 8 Avenue, Eufaula, Alabama 36027, beginning at<br/> 9 6:55 p.m., REBECCA H. SHORTER, witness in the<br/> 10 above cause, for oral examination, whereupon the<br/> 11 following proceedings were had:<br/> 12<br/> 13 REBECCA H. SHORTER,<br/> 14 being first duly sworn, was examined and<br/> 15 testified as follows:<br/> 16<br/> 17 THE COURT REPORTER: Usual<br/> 18 stipulations?<br/> 19 MR. KISER: Yes.<br/> 20 MR. GOULD: Yes.<br/> 21<br/> 22 EXAMINATION<br/> 23 BY MR. GOULD:</p>  | <p style="text-align: right;">8</p> <p>1 makes her job a little bit easier. It also means<br/> 2 that you'll hear my whole question before you give<br/> 3 your answer.<br/> 4 If I ask a question and you don't understand<br/> 5 it, just let me know. I'll try and repeat the<br/> 6 question or ask the question differently so it's<br/> 7 not so confusing.<br/> 8 If you do answer my question, I'm going to<br/> 9 assume that you understood it and that you're<br/> 10 answering truthfully and to the best of your<br/> 11 ability. Okay?<br/> 12 A. Yes.<br/> 13 Q. Now, if you need to take a break during the<br/> 14 course of the deposition, just let me know.<br/> 15 That's not a problem; we can take a break.<br/> 16 Now, can you please state your full name for<br/> 17 the record?<br/> 18 A. Rebecca A. Shorter.<br/> 19 Q. Ms. Shorter, what is your home address?<br/> 20 A. 809 Spruce Drive, Eufaula, Alabama.<br/> 21 Q. Are you currently employed?<br/> 22 A. Yes.<br/> 23 Q. Where do you work?</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Ms. Shorter.<br/> 2 A. Good afternoon.<br/> 3 Q. My name is Malcolm Gould. I'm an attorney<br/> 4 with the law firm of Pelino &amp; Lentz in<br/> 5 Philadelphia. I represent Equity Group Eufaula<br/> 6 Division in a lawsuit that's been filed in Federal<br/> 7 Court in the Middle District of Alabama. We're<br/> 8 here to take your deposition today. You're a<br/> 9 plaintiff in that lawsuit.<br/> 10 I have a few ground rules for the deposition<br/> 11 that will hopefully make it move a little bit more<br/> 12 smoothly.<br/> 13 You see we have a court reporter here.<br/> 14 She's going to take down my questions and your<br/> 15 answers. I would ask that you keep all of your<br/> 16 answers verbal, that you say yes or no instead of<br/> 17 nodding your head or shrugging your shoulders or<br/> 18 saying uh-huh or huh-uh. That way we're sure that<br/> 19 the court reporter gets down your answers to my<br/> 20 questions.<br/> 21 I would also ask that you wait until I<br/> 22 finish my question before you give your answer.<br/> 23 That way we're not talking over each other. It</p> | <p style="text-align: right;">9</p> <p>1 A. Equity Group.<br/> 2 Q. And that's at the plant in Baker Hill?<br/> 3 A. Yes.<br/> 4 Q. How long have you worked there?<br/> 5 A. Nine years.<br/> 6 Q. Now, when you first started working at the<br/> 7 plant, was it owned by Equity Group?<br/> 8 A. No.<br/> 9 Q. Do you remember who it was owned by?<br/> 10 A. CP.<br/> 11 Q. And do you recall when the ownership of the<br/> 12 plant changed?<br/> 13 A. I can't recall.<br/> 14 Q. Ma'am, are you a member of the union?<br/> 15 A. No.<br/> 16 Q. Have you ever been a member of the union<br/> 17 during the time you've been employed at the plant?<br/> 18 A. Yes.<br/> 19 Q. Were you a member of the union when the<br/> 20 plant was owned by CP?<br/> 21 A. Yes.<br/> 22 Q. And were you a member of the union at some<br/> 23 point in time when the plant was owned by Equity?</p>  |

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| <p style="text-align: right;">10</p> <p>1 A. I'm not for sure.</p> <p>2 Q. So it's been a while since you've been a</p> <p>3 member of the union?</p> <p>4 A. Yes.</p> <p>5 Q. Years?</p> <p>6 A. I can't recall.</p> <p>7 Q. All right. Several years?</p> <p>8 A. I can't recall.</p> <p>9 Q. Okay. Now, you understand that you are a</p> <p>10 plaintiff in this lawsuit, correct?</p> <p>11 A. Yes.</p> <p>12 Q. What is your understanding as to what the</p> <p>13 lawsuit is about?</p> <p>14 A. Well, I haven't been paid all of my hourly</p> <p>15 wages.</p> <p>16 Q. And what activities or time do you believe</p> <p>17 you haven't been paid for?</p> <p>18 A. I don't understand.</p> <p>19 Q. All right. Well, you indicated that you</p> <p>20 don't believe you've been paid all of your hourly</p> <p>21 wages, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Can you explain for me what you mean by</p>   | <p style="text-align: right;">12</p> <p>1 A. Repeat your question.</p> <p>2 Q. I asked you if you had any meetings with</p> <p>3 anyone to prepare for your deposition.</p> <p>4 MR. STEENSLAND: Same objection.</p> <p>5 A. I don't understand.</p> <p>6 Q. All right. Well, did you meet with anybody</p> <p>7 today, before you sat down here for your</p> <p>8 deposition, to discuss your deposition?</p> <p>9 A. I still don't understand.</p> <p>10 Q. All right. Have you discussed your</p> <p>11 deposition with anybody, before you sat down here</p> <p>12 in this chair?</p> <p>13 A. I don't understand what you're asking.</p> <p>14 Q. I'm asking if you have sat down with anybody</p> <p>15 prior to your deposition today to talk about</p> <p>16 things that might come up in your deposition.</p> <p>17 A. No.</p> <p>18 Q. Did you sit down and talk with Mr.</p> <p>19 Steensland or anybody else about your deposition?</p> <p>20 A. I don't understand what you're saying.</p> <p>21 MR. STEENSLAND: Can I help?</p> <p>22 MR. GOULD: Please.</p> <p>23 MR. STEENSLAND: Did you talk with the</p> |
| <p style="text-align: right;">11</p> <p>1 that?</p> <p>2 A. Well, in changing in and out of our PPEs, a</p> <p>3 lot of time we haven't been paid for our hourly</p> <p>4 wages in changing out. Coming in, first of all,</p> <p>5 and going out to break and coming back in from</p> <p>6 break, and the process of washing up and being</p> <p>7 sanitized and all that stuff.</p> <p>8 Q. Is there anything else that you believe</p> <p>9 falls within your claims in this lawsuit?</p> <p>10 A. I don't understand.</p> <p>11 Q. All right. Other than what you have just</p> <p>12 described for me, is there anything else that you</p> <p>13 believe you're not being paid properly for?</p> <p>14 A. No.</p> <p>15 Q. How did you first learn about this lawsuit?</p> <p>16 A. I can't remember. I'm sorry.</p> <p>17 Q. Have you met with anyone to prepare for your</p> <p>18 deposition today?</p> <p>19 MR. STEENSLAND: Objection, if that</p> <p>20 calls for meeting with the lawyers.</p> <p>21 Q. You can answer the question.</p> <p>22 MR. STEENSLAND: You can answer. I</p> <p>23 apologize. It's been a long day.</p> | <p style="text-align: right;">13</p> <p>1 lawyers before you came in here today?</p> <p>2 THE WITNESS: I was just sitting there</p> <p>3 waiting on -- I don't understand what you're</p> <p>4 saying.</p> <p>5 MR. STEENSLAND: Did you speak with us</p> <p>6 in that room out there before you came in here</p> <p>7 today?</p> <p>8 THE WITNESS: About what?</p> <p>9 MR. STEENSLAND: Just about the case.</p> <p>10 I'm not asking you what you said. But did you</p> <p>11 speak with us?</p> <p>12 THE WITNESS: I sat in the room.</p> <p>13 MR. STEENSLAND: Okay. Fair enough.</p> <p>14 (BY MR. GOULD)</p> <p>15 Q. I understand. Did you sit in on any other</p> <p>16 meetings, other than a meeting today, to discuss</p> <p>17 this deposition?</p> <p>18 A. No.</p> <p>19 Q. Have you been to any meetings that discussed</p> <p>20 this case?</p> <p>21 A. No.</p> <p>22 Q. I'm not trying to trick you or anything</p> <p>23 here, ma'am.</p>   |

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| <p style="text-align: right;">14</p> <p>1 MR. STEENSLAND: I think I understand</p> <p>2 where we were confused.</p> <p>3 Q. What is your current position at the plant?</p> <p>4 A. I don't understand.</p> <p>5 Q. Do you have a job title or a job that you do</p> <p>6 when you are at the plant?</p> <p>7 A. What are we speaking on? I don't</p> <p>8 understand.</p> <p>9 Q. All right. You work at the Equity Group,</p> <p>10 correct?</p> <p>11 A. Right.</p> <p>12 Q. When you go to work, what do you do?</p> <p>13 A. I work on the laydown line.</p> <p>14 Q. And can you describe for me what happens at</p> <p>15 the laydown line?</p> <p>16 A. You're laying meat down flat on the belt.</p> <p>17 If it's not flat, you correct it.</p> <p>18 Q. All right. And why are you laying it out</p> <p>19 flat?</p> <p>20 A. That's the way they want it.</p> <p>21 Q. Does it go into a machine after you lay it</p> <p>22 out flat?</p> <p>23 A. Yes, some.</p>                            | <p style="text-align: right;">16</p> <p>1 A. Debone.</p> <p>2 Q. Did you work on a debone line?</p> <p>3 A. Yes.</p> <p>4 Q. Now, you indicated that you had transferred</p> <p>5 between buildings; is that correct?</p> <p>6 A. I said I have worked different jobs.</p> <p>7 Q. All right. What other jobs have you worked</p> <p>8 other than the debone line or the laydown line?</p> <p>9 A. Beg your pardon?</p> <p>10 Q. You've worked different jobs, correct? Is</p> <p>11 that what you have testified to, ma'am?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And so far, you've told me that you -- you</p> <p>14 currently work on the laydown line; is that</p> <p>15 correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And you've told me that you have also worked</p> <p>18 on a debone line; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Other than those two jobs, have you had any</p> <p>21 other jobs at the plant?</p> <p>22 A. No.</p> <p>23 Q. So over the course of your nine years</p>   |
| <p style="text-align: right;">15</p> <p>1 Q. And it's cut by the machine; is that right?</p> <p>2 A. The meat have to be flat at all times.</p> <p>3 Q. So that the machine can cut it properly; is</p> <p>4 that correct?</p> <p>5 A. No.</p> <p>6 Q. Okay. Where is the laydown line located?</p> <p>7 A. In the cook building.</p> <p>8 Q. That's what I thought. How long have you</p> <p>9 worked in the cook plant?</p> <p>10 A. I can't recall the times. I worked in</p> <p>11 different jobs.</p> <p>12 Q. So you've worked at the plant for nine</p> <p>13 years. Have you ever worked in the fresh plant?</p> <p>14 A. The what?</p> <p>15 Q. What I would call the fresh plant. The</p> <p>16 other building. Not the cook plant, but the other</p> <p>17 building?</p> <p>18 A. What is the other building?</p> <p>19 Q. Where they have the evisceration and the</p> <p>20 debone department.</p> <p>21 A. Yes.</p> <p>22 Q. In what areas have you worked in that</p> <p>23 building?</p> | <p style="text-align: right;">17</p> <p>1 working at the plant in Baker Hill, you've worked</p> <p>2 either on the debone line or on the laydown line,</p> <p>3 and that's it; is that correct?</p> <p>4 A. That I can recall.</p> <p>5 Q. Have you worked on the laydown line since</p> <p>6 the plant has been owned by Equity?</p> <p>7 A. Yes.</p> <p>8 Q. And that's in the cook plant?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Those are the only questions I have</p> <p>11 for you. Thank you.</p> <p>12 BY MR. STEENSLAND:</p> <p>13 Q. Ms. Shorter, do you remember when Equity</p> <p>14 bought out that plant? Do you remember that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And you testified that you had worked</p> <p>17 in the cook building since Equity had purchased</p> <p>18 that plant?</p> <p>19 A. Say that again now.</p> <p>20 Q. Okay. What I'm trying to get at is, have</p> <p>21 you worked in the other building, what we're</p> <p>22 referring to as the fresh building or the raw</p> <p>23 building, since Equity took over that plant?</p> |

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| <p style="text-align: right;">18</p> <p>1 A. Yes.</p> <p>2 Q. You have?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. No further questions. I'm sure Mr.</p> <p>5 Gould has some more.</p> <p>6 BY MR. GOULD:</p> <p>7 Q. All right. Then I do have questions for</p> <p>8 you, ma'am.</p> <p>9 All right. Since Equity has acquired the</p> <p>10 plant, what positions in the raw plant have you</p> <p>11 worked in?</p> <p>12 A. Packout in the debone.</p> <p>13 Q. Any other positions, ma'am?</p> <p>14 A. No.</p> <p>15 Q. And do you have an idea as to how long you</p> <p>16 worked in packout since Equity has owned the</p> <p>17 plant?</p> <p>18 A. I can't recall.</p> <p>19 Q. And packout is located in the debone room;</p> <p>20 is that correct?</p> <p>21 A. It's on the floor.</p> <p>22 Q. And that's located in the same general area</p> <p>23 as the debone lines; is that correct?</p>   | <p style="text-align: right;">20</p> <p>1 A. You said "clothing." I'm confused.</p> <p>2 Q. I'm going to ask you a new question. Were</p> <p>3 there any items or objects, things that were given</p> <p>4 to you, supplied to you by the company, that you</p> <p>5 would wear when you were out on the production</p> <p>6 floor when you were working in packout?</p> <p>7 A. (No response.)</p> <p>8 Q. It's not a trick question, ma'am. I'm not</p> <p>9 trying to trick you here.</p> <p>10 Did you wear a smock when you worked in</p> <p>11 packout?</p> <p>12 A. Yes.</p> <p>13 Q. Did you wear boots when you worked in</p> <p>14 packout?</p> <p>15 A. Yes.</p> <p>16 Q. Were those boots that were supplied to you</p> <p>17 by the company?</p> <p>18 A. Yes.</p> <p>19 Q. All right. Did you wear a hair net?</p> <p>20 A. Yes.</p> <p>21 Q. Did you wear earplugs?</p> <p>22 A. Yes.</p> <p>23 Q. When you worked in packout, did you wear any</p> |
| <p style="text-align: right;">19</p> <p>1 A. Yes.</p> <p>2 Q. Did you work night shift or day shift when</p> <p>3 you worked in packout?</p> <p>4 A. Day.</p> <p>5 Q. And do you know what time your shift</p> <p>6 started?</p> <p>7 A. (No response.)</p> <p>8 Q. If you don't remember, "I don't remember" is</p> <p>9 an acceptable answer.</p> <p>10 A. I don't remember.</p> <p>11 Q. That's fine. As an employee in the packout</p> <p>12 department, were there any items of clothing or</p> <p>13 equipment that you had to wear when you were out</p> <p>14 on the production floor?</p> <p>15 A. What is clothing?</p> <p>16 Q. It could be a smock; it could be an apron.</p> <p>17 When I say "clothing or equipment," I'm just using</p> <p>18 the terms very generally.</p> <p>19 Were there any items that you had to wear</p> <p>20 that were supplied to you by the company that you</p> <p>21 wore when you were out on the production floor?</p> <p>22 A. I don't understand.</p> <p>23 Q. What don't you understand?</p> | <p style="text-align: right;">21</p> <p>1 kind of gloves?</p> <p>2 A. Yes.</p> <p>3 Q. What kind of gloves did you wear?</p> <p>4 A. Plastic gloves and cloth gloves.</p> <p>5 Q. Did you wear an apron?</p> <p>6 A. Yes.</p> <p>7 Q. What was the apron like? Can you describe</p> <p>8 it for me?</p> <p>9 A. A plastic apron.</p> <p>10 Q. It was a blue plastic apron?</p> <p>11 A. Yes.</p> <p>12 Q. Did you wear any sort of plastic sleeves?</p> <p>13 A. Yes.</p> <p>14 Q. Did you wear a chain glove when you worked</p> <p>15 in packout?</p> <p>16 A. No.</p> <p>17 Q. When you worked out in packout, would you be</p> <p>18 working with a knife or with scissors?</p> <p>19 A. I don't understand.</p> <p>20 Q. Well, can you describe for me what you would</p> <p>21 do for your job when you were working in packout?</p> <p>22 A. Pack the meat out in bags.</p> <p>23 Q. All right. Was there a machine that would</p>                          |

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| <p style="text-align: right;">22</p> <p>1 drop the meat into the bag?</p> <p>2 A. I'll say yes.</p> <p>3 Q. All right. In performing your work on the</p> <p>4 packout line, were you required to use a knife to</p> <p>5 cut meat, or was the meat already cut?</p> <p>6 A. No.</p> <p>7 Q. So you did not have to use a knife?</p> <p>8 A. Correct.</p> <p>9 Q. Did you have to use scissors to cut meat?</p> <p>10 A. I can't recall.</p> <p>11 Q. During the time that you worked in packout,</p> <p>12 could you wear your boots from home? Could you</p> <p>13 wear them from outside of the plant?</p> <p>14 A. No.</p> <p>15 Q. Would you normally drive yourself to work</p> <p>16 during the time that you were working in packout?</p> <p>17 A. I don't understand.</p> <p>18 Q. How would you get to work when you were</p> <p>19 working in packout? How would you get from the</p> <p>20 place where you live to the plant?</p> <p>21 A. I drove.</p> <p>22 Q. Okay. When you would arrive at the plant,</p> <p>23 did you have to go through any kind of security?</p> | <p style="text-align: right;">24</p> <p>1 A. Yes.</p> <p>2 Q. And if you have that sticker on your car can</p> <p>3 you just drive past the security station that's in</p> <p>4 the driveway?</p> <p>5 A. Yes.</p> <p>6 Q. And did you have that sticker on your car</p> <p>7 when you worked in the packout department, ma'am?</p> <p>8 A. I can't recall.</p> <p>9 Q. When you were working in packout, once you</p> <p>10 got into the parking lot, was there any sort of</p> <p>11 metal detectors or turnstiles that you had to pass</p> <p>12 through to get into the building?</p> <p>13 A. I don't understand.</p> <p>14 Q. All right. You would get past the guard</p> <p>15 shack and you would park in the parking lot,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Would you then go to enter the building, the</p> <p>19 plant?</p> <p>20 A. Yes.</p> <p>21 Q. Did you have to go through any sort of metal</p> <p>22 detectors at the doors?</p> <p>23 A. (No response.)</p> |
| <p style="text-align: right;">23</p> <p>1 A. Yes.</p> <p>2 Q. And can you describe that security for me,</p> <p>3 please?</p> <p>4 A. I don't understand.</p> <p>5 Q. Was there -- when you would arrive at the</p> <p>6 plant, was there a guard house on the driveway?</p> <p>7 A. Yes.</p> <p>8 Q. Would you have to stop at that guard house</p> <p>9 and have your car searched?</p> <p>10 A. No.</p> <p>11 Q. All right. Did you have a sticker for your</p> <p>12 car that indicated that you were an employee?</p> <p>13 A. I don't understand.</p> <p>14 Q. Okay. You indicated that there is a guard</p> <p>15 house on the driveway?</p> <p>16 A. Right.</p> <p>17 Q. Did you have to show something to get past</p> <p>18 the guard house, or could you just drive right in?</p> <p>19 A. Show something.</p> <p>20 Q. And what did you have to show?</p> <p>21 A. I don't understand.</p> <p>22 Q. Okay. Do you have some sort of sticker on</p> <p>23 your car?</p>   | <p style="text-align: right;">25</p> <p>1 Q. Do you understand what I'm saying when I say</p> <p>2 metal detectors?</p> <p>3 A. No.</p> <p>4 Q. Would you just open the door and walk into</p> <p>5 the plant?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Would you be carrying any of your</p> <p>8 items, the things that we've identified</p> <p>9 previously: your gloves, your smock, your</p> <p>10 sleeves? Any of those particular items, would you</p> <p>11 be carrying those when you entered the building?</p> <p>12 A. I don't understand.</p> <p>13 Q. Okay. I'll try and ask the question</p> <p>14 differently.</p> <p>15 When you would arrive at the plant and you</p> <p>16 would walk into the door, would you be carrying</p> <p>17 anything?</p> <p>18 A. Yes.</p> <p>19 Q. And what would you be carrying?</p> <p>20 A. Lunch.</p> <p>21 Q. Okay. Would you be carrying anything else?</p> <p>22 A. I don't understand.</p> <p>23 Q. Ma'am, would you be carrying your gloves</p> |

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| <p style="text-align: right;">26</p> <p>1 when you would enter the plant when you were</p> <p>2 working in packout, if you remember?</p> <p>3 A. (No response.)</p> <p>4 Q. Ma'am, you seem to be having difficulty</p> <p>5 answering my question. Is it just because you're</p> <p>6 having problems remembering, or is it because you</p> <p>7 just don't understand the questions I'm asking?</p> <p>8 A. If I have them.</p> <p>9 Q. So if you had gloves, you would be carrying</p> <p>10 them. I understand the point you're making,</p> <p>11 ma'am. I'm not trying to trick you or anything;</p> <p>12 I'm just trying to ask some questions and get</p> <p>13 answers. I'm not trying to fool you into saying</p> <p>14 something or anything like that. I'm just trying</p> <p>15 to get some facts from you and that's all. I'm</p> <p>16 certainly not trying to play games here.</p> <p>17 Did you have a locker at the plant when you</p> <p>18 were working in packout?</p> <p>19 A. I can't recall.</p> <p>20 Q. Okay. Now, you've listed items for me that</p> <p>21 you would wear when you were working in packout,</p> <p>22 including boots, smock, apron, gloves, hair net.</p> <p>23 Where would you keep those items when you</p> | <p style="text-align: right;">28</p> <p>1 Q. Would you put your lunch someplace or would</p> <p>2 you still be carrying that?</p> <p>3 A. Put it someplace.</p> <p>4 Q. And then you would go to the supply area?</p> <p>5 A. Yes.</p> <p>6 Q. And would you still be carrying any of your</p> <p>7 other items of clothing or equipment that you had</p> <p>8 taken home with you?</p> <p>9 A. Only if I had it.</p> <p>10 Q. Okay. And what would you pick up at the</p> <p>11 supply room when you were working in packout?</p> <p>12 A. Hair net, beard net, earplugs, safety</p> <p>13 glasses, plastic arm sleeves, plastic gloves,</p> <p>14 cloth gloves, apron. That's all I can recall.</p> <p>15 Q. And then what would you do after you went to</p> <p>16 the supply room?</p> <p>17 A. Get ready for work.</p> <p>18 Q. All right. Where would you get ready for</p> <p>19 work?</p> <p>20 A. In the workplace.</p> <p>21 Q. Would you put your boots on someplace?</p> <p>22 A. Yes.</p> <p>23 Q. Where would you put your boots on?</p>   |
| <p style="text-align: right;">27</p> <p>1 weren't working?</p> <p>2 A. I'd carry them with me.</p> <p>3 Q. So you would take them home with you at the</p> <p>4 end of your shift, and then you would bring them</p> <p>5 with you for the beginning of your shift?</p> <p>6 A. Yes.</p> <p>7 Q. Now, when you would first enter the plant,</p> <p>8 when you were working in packout and you passed</p> <p>9 through the doors to enter the plant, what would</p> <p>10 be the first thing you would do?</p> <p>11 A. Clock in.</p> <p>12 Q. And where would you clock in?</p> <p>13 A. Break room.</p> <p>14 Q. Which break room?</p> <p>15 A. The first one.</p> <p>16 Q. Is that the debone break room? The bigger</p> <p>17 break room or the smaller break room?</p> <p>18 A. Large.</p> <p>19 Q. Okay. And then after you clocked in, what</p> <p>20 would you do?</p> <p>21 A. Supply.</p> <p>22 Q. You would go and get your supplies?</p> <p>23 A. Yes.</p>  | <p style="text-align: right;">29</p> <p>1 A. While I'm in the break room.</p> <p>2 Q. Would you put your hair net on someplace?</p> <p>3 A. In the workplace.</p> <p>4 Q. When you say "in the workplace," are you</p> <p>5 talking about out in the production area after you</p> <p>6 walked through those double doors? You've left</p> <p>7 the hallway and walked through those double doors?</p> <p>8 A. Ask your question again.</p> <p>9 Q. Yes, ma'am.</p> <p>10 A. What was your question?</p> <p>11 Q. I'm sorry.</p> <p>12 A. What was your question?</p> <p>13 Q. Okay. My question was: When you say, "in</p> <p>14 the workplace," were you talking about out on the</p> <p>15 production floor? After you walked through these</p> <p>16 double doors, you left the hallway, and moved into</p> <p>17 the production area? Is that what you mean when</p> <p>18 you say, "in the workplace"?</p> <p>19 A. Except you have to put your net on before</p> <p>20 you go in there, and earplugs and safety glasses.</p> <p>21 Then you can enter.</p> <p>22 Q. All right. So you would put those items on</p> <p>23 before going through the double doors?</p> |

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| <p style="text-align: right;">30</p> <p>1 A. Yes.</p> <p>2 Q. And what would you do then, after you passed</p> <p>3 through the double doors?</p> <p>4 A. You have -- your feet have to be sanitized,</p> <p>5 your boots.</p> <p>6 Q. How would that work?</p> <p>7 A. We have sanitizing stuff in the floor when</p> <p>8 you enter in.</p> <p>9 Q. Was it normally already sitting on the</p> <p>10 floor? Was it some sort of foam; is that correct?</p> <p>11 A. Foam.</p> <p>12 Q. Would that foam already be there for you to</p> <p>13 walk through?</p> <p>14 A. I don't understand what you're saying.</p> <p>15 Q. You've indicated to me that you would</p> <p>16 sanitize your boots; is that correct?</p> <p>17 A. Right.</p> <p>18 Q. Can you explain to me how you would do that?</p> <p>19 How would it happen?</p> <p>20 A. The sanitizing stuff they've got there in</p> <p>21 the area.</p> <p>22 Q. And how did the sanitizing stuff get there</p> <p>23 for you to sanitize your boots?</p> | <p style="text-align: right;">32</p> <p>1 Q. And then after you did that, what would you</p> <p>2 do?</p> <p>3 A. Go to the workstation.</p> <p>4 Q. All right. Now, can you estimate for me how</p> <p>5 long it would take from the time that you entered</p> <p>6 through the double doors, before you sanitized</p> <p>7 your boots, to the time you got out to your</p> <p>8 workstation?</p> <p>9 A. About five to ten minutes.</p> <p>10 Q. Now, during the time you worked in packout,</p> <p>11 did you get any breaks?</p> <p>12 A. Yes.</p> <p>13 Q. How many breaks did you get?</p> <p>14 A. Two.</p> <p>15 Q. Do you know how long those breaks were?</p> <p>16 A. 30 minutes.</p> <p>17 Q. How would you know when it was time to go on</p> <p>18 break, when you were released and you could leave</p> <p>19 the line and go on break?</p> <p>20 A. Somebody would tell you.</p> <p>21 Q. A supervisor or somebody would tell you?</p> <p>22 A. Yes.</p> <p>23 Q. Can you describe for me what you would do</p>  |
| <p style="text-align: right;">31</p> <p>1 A. It's there in the area for you to use.</p> <p>2 Q. And then after you sanitized your boots,</p> <p>3 what would you do next?</p> <p>4 A. Go in and gear up.</p> <p>5 Q. Okay. And that's when you would put on the</p> <p>6 other items that you had not already put on?</p> <p>7 A. Yes.</p> <p>8 Q. And then what would you do after that?</p> <p>9 A. Wash.</p> <p>10 Q. Can you describe for me what it is you would</p> <p>11 do?</p> <p>12 A. You have to sanitize the stuff you have on,</p> <p>13 the sleeves and your apron and wash your hands.</p> <p>14 Q. Okay. And when you say "sanitize" your</p> <p>15 apron and your sleeves, can you describe for me</p> <p>16 what it is you did?</p> <p>17 A. You have to wash.</p> <p>18 Q. Were there sinks inside the production area?</p> <p>19 A. Yes.</p> <p>20 Q. And was there soap?</p> <p>21 A. Yes.</p> <p>22 Q. And is that what you would use?</p> <p>23 A. Yes.</p>                               | <p style="text-align: right;">33</p> <p>1 from the time the person told you you could leave</p> <p>2 on break until the time you left the production</p> <p>3 area and were out in the hallway by the break</p> <p>4 room?</p> <p>5 A. Say that again.</p> <p>6 Q. All right. Can you describe for me what you</p> <p>7 would do when it was time for you to go out on</p> <p>8 break? So from the time that you would leave your</p> <p>9 spot in the packout area until the time that you</p> <p>10 exited the production area and were outside in the</p> <p>11 hallway by the break rooms?</p> <p>12 A. I would leave and go to the wash station and</p> <p>13 stand in line until I can get to the sink. And</p> <p>14 then I would wash all over again, sleeves, aprons,</p> <p>15 my gloves.</p> <p>16 Q. And then what would you do after that?</p> <p>17 A. Then we have to get -- I would have to get</p> <p>18 out of the clothes, hang them up inside the</p> <p>19 workplace, except for the safety glasses and the</p> <p>20 hair net.</p> <p>21 Q. Could you keep your boots on?</p> <p>22 A. Yes. And we have to go back through the</p> <p>23 sanitizing for the boots again.</p> |

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| <p style="text-align: right;">34</p> <p>1 Q. And then you would go out into the hallway?</p> <p>2 A. Yes.</p> <p>3 Q. And then what would you do when you got out</p> <p>4 into the hallway?</p> <p>5 A. Go into the break room.</p> <p>6 Q. And when you got into the break room, what</p> <p>7 would you do?</p> <p>8 A. Take my break.</p> <p>9 Q. Would you eat something or drink something?</p> <p>10 A. Sometimes.</p> <p>11 Q. Other times would you sit down and talk with</p> <p>12 coworkers?</p> <p>13 A. Rest.</p> <p>14 Q. Rest? Okay. Approximately how long do you</p> <p>15 think it took you from the time you left the</p> <p>16 packout line until the time you were walking out</p> <p>17 through the door into the hallway?</p> <p>18 A. Five to ten minutes.</p> <p>19 Q. And what about when you would return from</p> <p>20 break? Would that also be five to ten minutes?</p> <p>21 A. Yes.</p> <p>22 Q. And would you do the same thing before and</p> <p>23 after your second break as you did before and</p> | <p style="text-align: right;">36</p> <p>1 A. Wash my sleeves, wash my apron, wash my</p> <p>2 gloves. I'd stand in line and wait until you can</p> <p>3 get to the wash station.</p> <p>4 Q. And then after you washed, what would you</p> <p>5 do?</p> <p>6 A. Pull off my apron, my sleeves, once we walk</p> <p>7 out the door. I keep my safety glasses and</p> <p>8 earplugs on. I'll pull off all the other stuff.</p> <p>9 Q. And then would you exit the production area?</p> <p>10 A. Go back through the foot sanitizer, and</p> <p>11 exit.</p> <p>12 Q. And during the time that you worked in</p> <p>13 packout, did you have to wash your own smock?</p> <p>14 A. Yes.</p> <p>15 Q. So you would take your smock home with you?</p> <p>16 A. Yes.</p> <p>17 Q. Approximately how long would it take you at</p> <p>18 the end of your shift from the time you left your</p> <p>19 spot in the packout area until the time you walked</p> <p>20 out through the double doors?</p> <p>21 A. Say that again.</p> <p>22 Q. At the end of your shift, approximately how</p> <p>23 long would it take you from the time that you left</p> |
| <p style="text-align: right;">35</p> <p>1 after your first break?</p> <p>2 A. Do the same thing.</p> <p>3 Q. Would it take the same amount of time?</p> <p>4 A. Yes.</p> <p>5 Q. And how would you know when it was the end</p> <p>6 of your shift?</p> <p>7 A. I don't understand.</p> <p>8 Q. All right. Well, when you would return from</p> <p>9 your second break, you would still have to work</p> <p>10 before it was the end of your shift; is that</p> <p>11 correct?</p> <p>12 A. Right.</p> <p>13 Q. How would you know when it was the end of</p> <p>14 your shift and you were allowed to leave?</p> <p>15 A. The supervisor would tell you or the line</p> <p>16 leader.</p> <p>17 Q. So you would be told that it was okay to</p> <p>18 leave?</p> <p>19 A. Right.</p> <p>20 Q. And when you were told it was okay to leave,</p> <p>21 what would you do then?</p> <p>22 A. Go to the wash station.</p> <p>23 Q. Okay. And what would you do there?</p>  | <p style="text-align: right;">37</p> <p>1 your position on the line until the time you were</p> <p>2 exiting the production area, you were walking out</p> <p>3 into the hallway?</p> <p>4 A. Five to ten minutes.</p> <p>5 Q. Those are the only questions I have for you,</p> <p>6 ma'am. Thank you very much. I appreciate your</p> <p>7 patience with me.</p> <p>8 A. You're welcome.</p> <p>9 MR. STEENSLAND: I have nothing</p> <p>10 further. Thank you.</p> <p>11</p> <p>12 (The deposition was concluded.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |

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| <p style="text-align: right;">38</p> <p>1           <b>CERTIFICATE</b></p> <p>2</p> <p>3       <b>STATE OF ALABAMA</b></p> <p>4       <b>BARBOUR COUNTY</b></p> <p>5</p> <p>6           I hereby certify that the above and</p> <p>7       foregoing deposition was taken down by me in</p> <p>8       stenotype and the questions and answers thereto</p> <p>9       were transcribed by means of computer-aided</p> <p>10      transcription, and that the foregoing represents</p> <p>11      a true and correct transcript of the testimony</p> <p>12      given by said witness upon said hearing.</p> <p>13           I further certify that I am neither of</p> <p>14      counsel, nor kin to the parties to the action,</p> <p>15      nor am I in anywise interested in the result of</p> <p>16      said cause.</p> <p>17</p> <p>18</p> <p>19           <b>CYNTHIA M. NOAKES, Commissioner</b></p> <p>20           <b>Certified Court Reporter,</b></p> <p>21           <b>ACCR #327 - Expires 09/30/2008</b></p> <p>22</p> <p>23           <b>Commission Expires 07/08/2009</b></p> |  |
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**TAB 50**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
KENDRICK LANAN SPANN

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| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of KENDRICK LANAN</p> <p>6 SPANN may be taken before Cynthia M. Noakes,</p> <p>7 Court Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 23rd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-37</p> <p>4</p> <p>5   EXHIBITS:</p> <p>6   (No exhibits were</p> <p>7   submitted to said deposition.)</p> <p>8</p> <p>9   Reporter's Certificate         38</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. P. MARK PETRO</p> <p>5       SCHREIBER &amp; PETRO, PC</p> <p>6       ATTORNEYS AT LAW</p> <p>7       Two Metroplex Drive</p> <p>8       Suite 250</p> <p>9       Birmingham, Alabama 35209</p> <p>10      (205) 871-5080</p> <p>11</p> <p>12   ON BEHALF OF THE DEFENDANT:</p> <p>13      MR. MALCOLM S. GOULD</p> <p>14      PELINO &amp; LENTZ</p> <p>15      ATTORNEYS AT LAW</p> <p>16      One Liberty Place</p> <p>17      Thirty-Second Floor</p> <p>18      Philadelphia, Pennsylvania 19103</p> <p>19      (215) 665-1540</p> <p>20</p> <p>21   ALSO PRESENT:</p> <p>22      Annie Ivery, Co-Plaintiff</p> <p>23      *****</p> |



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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified<br/> 2 Court Reporter of Eufaula, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at the Law Offices of WILLIAMS,<br/> 7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange<br/> 8 Avenue, Eufaula, Alabama 36027, beginning at<br/> 9 1:35 p.m., KENDRICK LANAN SPANN, witness in the<br/> 10 above cause, for oral examination, whereupon the<br/> 11 following proceedings were had:<br/> 12<br/> 13 KENDRICK LANAN SPANN,<br/> 14 being first duly sworn, was examined and<br/> 15 testified as follows:<br/> 16<br/> 17 THE COURT REPORTER: Usual<br/> 18 stipulations?<br/> 19 MR. PETRO: Yes.<br/> 20 MR. GOULD: Yes.<br/> 21<br/> 22 EXAMINATION<br/> 23 BY MR. GOULD:</p>   | <p style="text-align: right;">8</p> <p>1 you hear my whole question before you give your<br/> 2 answer. Okay?<br/> 3 A. Yes, sir.<br/> 4 Q. Now, if I ask a question and you don't<br/> 5 understand it, just let me know. I'll either<br/> 6 repeat the question or try and ask the question in<br/> 7 a different way so it's not so confusing.<br/> 8 If you answer my question, I'm going to<br/> 9 assume that you understood the question and you're<br/> 10 answering truthfully and to the best of your<br/> 11 ability. Okay?<br/> 12 A. Yes, sir.<br/> 13 Q. I don't anticipate the deposition will take<br/> 14 long, but if you need to take a break, just let me<br/> 15 know and we'll take a break.<br/> 16 A. Yes, sir.<br/> 17 Q. Now, can you please state your full name?<br/> 18 A. Kendrick Lanan Spann.<br/> 19 Q. Mr. Spann, what is your home address?<br/> 20 A. 415 South Randolph Avenue.<br/> 21 Q. Is that here in Eufaula?<br/> 22 A. Eufaula, Alabama.<br/> 23 Q. Sir, are you currently employed?</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Mr. Spann?<br/> 2 A. Good afternoon.<br/> 3 Q. My name is Malcolm Gould. I'm an attorney<br/> 4 with the law firm of Pelino &amp; Lentz in<br/> 5 Philadelphia. I am an attorney for Equity Group<br/> 6 Eufaula Division in a lawsuit that's been filed in<br/> 7 Federal Court in the Middle District of Alabama.<br/> 8 You're a plaintiff in that lawsuit, and we're here<br/> 9 to take your deposition today.<br/> 10 As you can see, we have a court reporter<br/> 11 here. She's going to take down my questions and<br/> 12 your answers. For that reason I would ask that<br/> 13 you keep all of your answers verbal. Say yes or<br/> 14 no instead of nodding your head or shaking your<br/> 15 head. I'd also ask that you say yes or no instead<br/> 16 of saying uh-huh or huh-uh. That way we're sure<br/> 17 that she takes down the right answer that you've<br/> 18 given me. Okay?<br/> 19 A. Yes, sir.<br/> 20 Q. I would also ask that you wait until I<br/> 21 finish my question before you give your answer.<br/> 22 That way we're not talking over each other. It<br/> 23 makes her job easier, and it also makes sure that</p> | <p style="text-align: right;">9</p> <p>1 A. Yes, sir.<br/> 2 Q. And where do you work?<br/> 3 A. Beaulieu of America.<br/> 4 Q. And where is that?<br/> 5 A. On State Docks Road.<br/> 6 Q. And were you at one time employed at the<br/> 7 chicken processing plant in Baker Hill?<br/> 8 A. Yes, sir.<br/> 9 Q. When was the last time you worked there?<br/> 10 A. In 2005.<br/> 11 Q. And how long did you work at the plant?<br/> 12 A. Five years.<br/> 13 Q. When you first started working at the plant,<br/> 14 who owned it?<br/> 15 A. CP.<br/> 16 Q. And when you stopped working at the plant<br/> 17 was it owned by a different company?<br/> 18 A. Yes, sir.<br/> 19 Q. And who was it owned by?<br/> 20 A. Keystone.<br/> 21 Q. Equity Group?<br/> 22 A. Yes, sir.<br/> 23 Q. Now, during the time you worked at the</p>   |

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| <p style="text-align: right;">10</p> <p>1 plant, what was your position?</p> <p>2 A. Debone.</p> <p>3 Q. Did you work in a debone line?</p> <p>4 A. Debone, yes, and at the rehang table.</p> <p>5 Q. When you left the chicken plant, where were</p> <p>6 you working? in what position?</p> <p>7 A. I worked at the rehang table.</p> <p>8 Q. And how long did you work at the rehang</p> <p>9 table?</p> <p>10 A. I worked at the rehang table for two years.</p> <p>11 Q. So that would take you back to 2003?</p> <p>12 A. Yes.</p> <p>13 Q. Now, you understand that you are a plaintiff</p> <p>14 in this lawsuit, correct?</p> <p>15 A. Yes.</p> <p>16 Q. What is your understanding as to what the</p> <p>17 lawsuit is about?</p> <p>18 A. It's about back time.</p> <p>19 Q. Can you describe for me what you mean when</p> <p>20 you say "back time"?</p> <p>21 A. When I worked out there back then, back then</p> <p>22 when I worked in 2001 between 2005.</p> <p>23 Q. Are there any particular activities that you</p>   | <p style="text-align: right;">12</p> <p>1 Q. Other than this time that you stayed late,</p> <p>2 are there any other claims that you are asserting</p> <p>3 in this lawsuit? Any other things you're claiming</p> <p>4 you should have been paid for?</p> <p>5 MR. PETRO: Object to the form. Calls</p> <p>6 for a legal conclusion. But you can answer. He's</p> <p>7 asking your understanding of what you're claiming.</p> <p>8 A. Yes, sir.</p> <p>9 Q. What else is there?</p> <p>10 A. Getting paid for my breaks and stuff.</p> <p>11 Q. And what about your breaks do you want to be</p> <p>12 paid for?</p> <p>13 A. The breaks that we wasn't getting our</p> <p>14 full-time breaks.</p> <p>15 Q. Anything else?</p> <p>16 A. Then while we were working, they always</p> <p>17 swiped the card and stuff, the master card.</p> <p>18 Q. When you were talking about master card,</p> <p>19 what do you mean?</p> <p>20 A. It's a little card they swiped while you was</p> <p>21 working.</p> <p>22 Q. Did you ever see the master card being</p> <p>23 swiped?</p>  |
| <p style="text-align: right;">11</p> <p>1 are claiming you should have been paid for?</p> <p>2 A. Overtime.</p> <p>3 Q. And are you claiming that you stayed late at</p> <p>4 work and you weren't paid for that?</p> <p>5 A. Yes.</p> <p>6 Q. And what caused you to stay late at work?</p> <p>7 A. I worked on the rehang table; you have to</p> <p>8 stay late to make combos and clean up and</p> <p>9 everything.</p> <p>10 Q. Now, the rehang, is that at the beginning of</p> <p>11 the debone line?</p> <p>12 A. It's right beside, on Line 1 and 2. It's in</p> <p>13 between. It's a long table, and they've got some</p> <p>14 things that you hang the chicken on.</p> <p>15 Q. So the chickens would come out of the</p> <p>16 hatchery?</p> <p>17 A. Yeah. We had to push the chicken in the bin</p> <p>18 and then come on down on the rehang table so we</p> <p>19 had to hang them.</p> <p>20 Q. So as the chickens came out of the hatchery,</p> <p>21 you would hang them back up so that they could go</p> <p>22 to the different debone lines?</p> <p>23 A. Yes.</p> | <p style="text-align: right;">13</p> <p>1 A. I seen the supervisor had them in their</p> <p>2 hand, but I didn't never know what it was.</p> <p>3 Q. When did you learn what a master card was?</p> <p>4 A. I was told it was a master card.</p> <p>5 Q. Who told you?</p> <p>6 A. I just heard. I didn't know. I don't know</p> <p>7 the person it is I heard.</p> <p>8 MR. PETRO: You don't have to tell them</p> <p>9 anything your lawyers told you or discussed with</p> <p>10 you. That's privileged.</p> <p>11 Q. Do you know when you learned the term</p> <p>12 "master card"? when you heard of it?</p> <p>13 A. No, sir.</p> <p>14 Q. Was it while you were working at the plant</p> <p>15 or after you left the plant?</p> <p>16 A. I can't remember.</p> <p>17 Q. Sir, when you worked in rehang, did you have</p> <p>18 to wear any items of clothing or equipment when</p> <p>19 you were out on the production floor?</p> <p>20 A. Equipment.</p> <p>21 Q. Can you list those for me?</p> <p>22 A. Hair net, sleeves, arm guard, gloves, cotton</p> <p>23 liners, earplugs, smocks, and an apron, and safety</p> |

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| <p style="text-align: right;">14</p> <p>1 glasses.</p> <p>2 Q. Did you have to wear boots?</p> <p>3 A. And boots, yes.</p> <p>4 Q. In your position in rehang, did you have to</p> <p>5 work with a knife or scissors?</p> <p>6 A. No, sir.</p> <p>7 Q. And you told me you had to wear an arm</p> <p>8 guard?</p> <p>9 A. Yeah, when I was working on the --</p> <p>10 Q. I'm just asking about when you were working</p> <p>11 on rehang. When you were working at rehang, did</p> <p>12 you have to wear an arm guard?</p> <p>13 A. No, sir.</p> <p>14 Q. During the time that you were working in</p> <p>15 rehang, were you able to wear your boots from</p> <p>16 home?</p> <p>17 A. I don't understand what you're talking</p> <p>18 about.</p> <p>19 Q. Okay. You indicated to me that you had to</p> <p>20 wear boots when you were out on the floor?</p> <p>21 A. Yeah.</p> <p>22 Q. Now, could you wear those boots outside of</p> <p>23 the plant?</p>     | <p style="text-align: right;">16</p> <p>1 page?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And do you remember what the phone number</p> <p>4 was for or who the phone number was for?</p> <p>5 A. No, sir.</p> <p>6 Q. Did you call the phone number?</p> <p>7 A. No, sir.</p> <p>8 Q. Now, you told me that you made some calls to</p> <p>9 try and find out about the lawsuit; is that</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Who did you call?</p> <p>13 A. I can't remember who I called. I can't</p> <p>14 remember who it was I called.</p> <p>15 Q. Was it other people who worked with you at</p> <p>16 the plant?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Sir, other than meeting with lawyers this</p> <p>19 morning or today to prepare for your deposition,</p> <p>20 have you attended any other meetings where this</p> <p>21 lawsuit had been discussed?</p> <p>22 A. Yes, sir.</p> <p>23 Q. How many times, other than today?</p> |
| <p style="text-align: right;">15</p> <p>1 A. No, we couldn't.</p> <p>2 Q. So you couldn't wear your boots to your car</p> <p>3 or put them in your car and wear them into the</p> <p>4 plant?</p> <p>5 A. No.</p> <p>6 Q. Sir, how did you first learn about this</p> <p>7 lawsuit?</p> <p>8 A. I heard about it on the Internet.</p> <p>9 Q. I'm sorry?</p> <p>10 A. On the Internet.</p> <p>11 Q. Where on the Internet did you find out about</p> <p>12 it?</p> <p>13 A. It was on MySpace.com.</p> <p>14 Q. Was there a listing for the lawsuit or was</p> <p>15 it on some person's MySpace page?</p> <p>16 A. I can't remember.</p> <p>17 Q. And what did you do after you read about the</p> <p>18 lawsuit on MySpace?</p> <p>19 A. I had called around to see was it true or</p> <p>20 not.</p> <p>21 Q. Was there a phone number on the listing?</p> <p>22 A. I can't remember the phone number.</p> <p>23 Q. But was there a phone number on the MySpace</p> | <p style="text-align: right;">17</p> <p>1 A. I think it was three or four times. I can't</p> <p>2 remember.</p> <p>3 Q. Did you attend a meeting this week?</p> <p>4 A. This week? No, sir.</p> <p>5 Q. When you would attend these meetings, where</p> <p>6 would they be held?</p> <p>7 A. Mostly they would be held at a hotel.</p> <p>8 Q. Which hotel?</p> <p>9 A. I can't remember. It's in Eufaula. I can't</p> <p>10 remember the hotel.</p> <p>11 Q. When you would attend these meetings, would</p> <p>12 you take anyone with you?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And who would you take with you?</p> <p>15 A. I'd take my wife.</p> <p>16 Q. Was your wife an employee at the plant?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Do you know if she's a plaintiff in this</p> <p>19 lawsuit?</p> <p>20 A. No, sir.</p> <p>21 Q. You don't know or she is not?</p> <p>22 A. I don't know.</p> <p>23 Q. What is your wife's name?</p>    |

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| <p style="text-align: right;">18</p> <p>1 A. LaWanda Morris.</p> <p>2 Q. LaWanda Morris?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Did you take anybody else with you to the</p> <p>5 meeting?</p> <p>6 A. That's the only person I took with me.</p> <p>7 Q. Now, sir, you provided me with a list of</p> <p>8 items you would wear out on the production floor</p> <p>9 when you were working in rehang.</p> <p>10 Could you take any of these items home with</p> <p>11 you at the end of the day?</p> <p>12 A. You could take the smocks home, yes.</p> <p>13 Q. At the time you worked at the plant -- and</p> <p>14 I'm talking about just the time you were working</p> <p>15 in rehang -- were you responsible for washing your</p> <p>16 own smock?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And was that true the entire time that you</p> <p>19 were working at the plant?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Were you given more than one smock?</p> <p>22 A. Just one smock.</p> <p>23 Q. That's what you would wear?</p> | <p style="text-align: right;">20</p> <p>1 would you do next?</p> <p>2 A. Park.</p> <p>3 Q. And then what would you do?</p> <p>4 A. Come to -- go the inside of the plant.</p> <p>5 Q. Was there any sort of security at the door?</p> <p>6 A. Not at that time.</p> <p>7 Q. Was there ever security at the door?</p> <p>8 A. They had a security guard back then, but not</p> <p>9 inside the plant they didn't.</p> <p>10 Q. You didn't have to go through metal</p> <p>11 detectors?</p> <p>12 A. No, sir.</p> <p>13 Q. You didn't have to go through turnstiles?</p> <p>14 A. No, sir.</p> <p>15 Q. You could just open the door and go in; is</p> <p>16 that correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. After you would enter the building, what</p> <p>19 would you do next?</p> <p>20 A. Go in the break room and sit down.</p> <p>21 Q. Which break room would you go to?</p> <p>22 A. Debone break room.</p> <p>23 Q. Which shift did you work?</p>  |
| <p style="text-align: right;">19</p> <p>1 A. Yes.</p> <p>2 Q. Did you have other ones at home?</p> <p>3 A. No, sir.</p> <p>4 Q. Sir, could you describe for me what you</p> <p>5 would do when you arrived at the plant?</p> <p>6 A. When I'd first get to the plant, I had to</p> <p>7 stop at the gate.</p> <p>8 Q. Okay. A security gate?</p> <p>9 A. Security gate, yes.</p> <p>10 Q. And did you have to stop and have your car</p> <p>11 searched?</p> <p>12 A. We had to stop and make sure that we had our</p> <p>13 card and stuff like that.</p> <p>14 Q. Did you have a sticker for your car?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And if you had your sticker, could you drive</p> <p>17 through?</p> <p>18 A. Yes, sir.</p> <p>19 Q. You didn't have to get out of your car or</p> <p>20 nobody searched your trunk or anything like that?</p> <p>21 A. No, sir.</p> <p>22 Q. And after you pulled into the parking lot</p> <p>23 and you were about to enter the building, what</p>                           | <p style="text-align: right;">21</p> <p>1 A. Second shift.</p> <p>2 Q. That would be the night shift?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Did your shift have a scheduled start time?</p> <p>5 A. We had to be on the floor at 4:30.</p> <p>6 Q. Did your shift have a scheduled end time?</p> <p>7 A. We supposed to be off the floor at 2:30, but</p> <p>8 we worked over sometimes.</p> <p>9 Q. So you would work until the production was</p> <p>10 finished for the day?</p> <p>11 A. Yes, sir.</p> <p>12 Q. After you sat down in the break room, what</p> <p>13 would you do next?</p> <p>14 A. I would just sit and wait until it was time</p> <p>15 to go in.</p> <p>16 Q. Would you clock in?</p> <p>17 A. Not as soon as I get there, no.</p> <p>18 Q. What time would you normally arrive at the</p> <p>19 plant?</p> <p>20 A. About four o'clock.</p> <p>21 Q. And what time would you normally clock in?</p> <p>22 A. About 4:20, about.</p> <p>23 Q. While you were sitting in the break room</p> |

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| <p style="text-align: right;">22</p> <p>1 waiting to clock in, what would you do?</p> <p>2 A. I mostly had me something to eat or</p> <p>3 something like that.</p> <p>4 Q. You indicated to me at 4:20 you would</p> <p>5 normally clock in?</p> <p>6 A. Yes.</p> <p>7 Q. What would you do after that?</p> <p>8 A. Just wait until it was time to get on the</p> <p>9 floor.</p> <p>10 Q. What time would you normally head out to the</p> <p>11 floor?</p> <p>12 A. About 4:25.</p> <p>13 Q. And could you describe for me what you would</p> <p>14 do when you left the break room and you were</p> <p>15 heading out to the production area?</p> <p>16 A. Go through the door; you've got to put your</p> <p>17 smock and stuff on; and push the button to</p> <p>18 sanitize your boots.</p> <p>19 Q. Now, did you have to push the button every</p> <p>20 time to sanitize your boots, or would there be</p> <p>21 times when there was sanitizer out there?</p> <p>22 A. Sometimes there'd be sanitizer already out</p> <p>23 there.</p> | <p style="text-align: right;">24</p> <p>1 A. Yes, sir.</p> <p>2 Q. You could put that on before you went out</p> <p>3 onto the production floor?</p> <p>4 A. Yeah. You're supposed to have it on before</p> <p>5 you hit the floor.</p> <p>6 Q. What about your earplugs?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And then after you would put on your items</p> <p>9 on the production floor, what would you do then?</p> <p>10 A. Just wait until it's time to start up.</p> <p>11 Q. Approximately how long would it take you</p> <p>12 from the time that you walked through the doors to</p> <p>13 the production area to the time that you got to</p> <p>14 your spot on the line?</p> <p>15 A. About a couple of minutes.</p> <p>16 Q. Now, during the course of your shift, would</p> <p>17 you get any breaks?</p> <p>18 A. Yes, sir.</p> <p>19 Q. How many breaks would you get?</p> <p>20 A. Two.</p> <p>21 Q. How long were your breaks?</p> <p>22 A. It was 30 minutes.</p> <p>23 Q. When you were working in rehang, how would</p>   |
| <p style="text-align: right;">23</p> <p>1 Q. And you could just walk through it?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And then after you sanitized your boots,</p> <p>4 what would you do next?</p> <p>5 A. Go inside two doors. There's one door like</p> <p>6 that and one door like that (pointing).</p> <p>7 Q. One door to the right and one to the left?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And what would you do next?</p> <p>10 A. Go to the right.</p> <p>11 Q. And what would you do after that?</p> <p>12 A. Put my equipment on.</p> <p>13 Q. When you came into the production doors,</p> <p>14 what items would you already be wearing?</p> <p>15 A. Just the smock.</p> <p>16 Q. Would you have your boots on?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Could you put your boots on in the break</p> <p>19 room?</p> <p>20 A. No, sir.</p> <p>21 Q. Where did you put on your boots?</p> <p>22 A. Mostly in the hallway.</p> <p>23 Q. Would you be wearing your hair net?</p>  | <p style="text-align: right;">25</p> <p>1 you know that you were cleared or allowed to leave</p> <p>2 for your break?</p> <p>3 A. They would call break.</p> <p>4 Q. So your supervisor would release you?</p> <p>5 A. Yes.</p> <p>6 Q. Would the chickens stop coming down the</p> <p>7 line?</p> <p>8 A. They would just call break; and as soon as</p> <p>9 the person called break, the first person in the</p> <p>10 line could go.</p> <p>11 Q. Okay. Did you have staggered breaks in your</p> <p>12 particular area in rehang? Would all of rehang go</p> <p>13 out on break at one time or would you take turns?</p> <p>14 A. I don't understand what you're talking</p> <p>15 about.</p> <p>16 Q. Okay. When it was time to leave for break</p> <p>17 when you were working in rehang, were there other</p> <p>18 people working beside you in rehang?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Would all of the people who were working</p> <p>21 beside you in rehang go on break at the same time?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Can you describe for me what you would do</p> |

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| <p style="text-align: right;">26</p> <p>1 after you were released from break?</p> <p>2 A. Go to the wash station and wash everything</p> <p>3 off.</p> <p>4 Q. Can you describe for me what you would do to</p> <p>5 wash everything off?</p> <p>6 A. It's a water -- it's a water thing at the</p> <p>7 table over there. You had to put your foot on the</p> <p>8 metal for the water to come out.</p> <p>9 Q. There was a sink?</p> <p>10 A. Yes.</p> <p>11 Q. And the sink was activated by stepping on a</p> <p>12 bar?</p> <p>13 A. Yes.</p> <p>14 Q. Was there soap there?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And when you say you would wash everything,</p> <p>17 what would you wash?</p> <p>18 A. The apron, the sleeves and everything.</p> <p>19 Q. And the gloves?</p> <p>20 A. Yes.</p> <p>21 Q. And you would rinse them off?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And what would you do next?</p>  | <p style="text-align: right;">28</p> <p>1 time is an estimate?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Once you would exit into the hallway, what</p> <p>4 would you do next?</p> <p>5 A. Go to the break room.</p> <p>6 Q. Would you go to the debone break room?</p> <p>7 A. Yes, sir.</p> <p>8 Q. What would you do in the break room?</p> <p>9 A. Sit down and rest until it was time to go</p> <p>10 back in.</p> <p>11 Q. Was there a set time or a scheduled time</p> <p>12 when you would normally take your first break?</p> <p>13 A. I can't remember what time it was.</p> <p>14 Q. Okay. Once you got to the break room, how</p> <p>15 long would you normally wait in the break room?</p> <p>16 A. About 30 minutes before you go back in.</p> <p>17 Q. And how would you know when it was time to</p> <p>18 return from break?</p> <p>19 A. It would just be a clock inside that would</p> <p>20 tell you what time it is.</p> <p>21 Q. Was there a clock inside the production</p> <p>22 area?</p> <p>23 A. Yes. They used to have a clock on the side.</p>   |
| <p style="text-align: right;">27</p> <p>1 A. Go to break.</p> <p>2 Q. Would you take any items off?</p> <p>3 A. No. You hang it up on a hook and go to</p> <p>4 break.</p> <p>5 Q. What items would you take off?</p> <p>6 A. The smock and apron and sleeves.</p> <p>7 Q. And gloves?</p> <p>8 A. And gloves.</p> <p>9 Q. Did you keep your boots on?</p> <p>10 A. Yes.</p> <p>11 Q. And could you keep your hair net on?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Could you keep your earplugs on?</p> <p>14 A. You would take the earplugs out when you go</p> <p>15 out the debone area.</p> <p>16 Q. Approximately how long would it take you</p> <p>17 from the time you stepped off the line to the time</p> <p>18 you exited the production area?</p> <p>19 A. About five minutes.</p> <p>20 Q. Now, did you ever time yourself with a</p> <p>21 stopwatch or anything like that?</p> <p>22 A. No.</p> <p>23 Q. This is just an estimate? This five minute</p> | <p style="text-align: right;">29</p> <p>1 Q. I'm just trying to determine how you would</p> <p>2 know what time you had to return from break?</p> <p>3 A. Watch the time. The supervisor will tell</p> <p>4 you what time it is.</p> <p>5 Q. Okay. And can you describe for me what you</p> <p>6 would do when you would return from break?</p> <p>7 A. Come back in the area to sanitize your</p> <p>8 boots, and go back in and put your stuff back on.</p> <p>9 Q. Is that everything you would do before you</p> <p>10 would go back to your position on the line?</p> <p>11 A. Then you go put on your apron, smock,</p> <p>12 sleeves, and everything back on.</p> <p>13 Q. And then after that you would walk to your</p> <p>14 position on the line?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And approximately how long would that take</p> <p>17 you from the time you entered the production doors</p> <p>18 to the time you got back on the line?</p> <p>19 A. About five minutes.</p> <p>20 Q. How long would it take you to put your smock</p> <p>21 on?</p> <p>22 A. I really don't know how much time it was.</p> <p>23 Q. How long would it take you to put your</p> |



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| <p style="text-align: right;">30</p> <p>1 gloves on?</p> <p>2 A. A couple of seconds.</p> <p>3 Q. Could you put your gloves on while you were</p> <p>4 walking to your position on the line?</p> <p>5 A. No, sir. I'd already have them on.</p> <p>6 Q. How long would it take you to put on your</p> <p>7 apron?</p> <p>8 A. I don't know what time.</p> <p>9 Q. You already had your boots on; is that</p> <p>10 correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And you would already have your hair net on;</p> <p>13 is that correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. You could wear your hair net out in the</p> <p>16 break room?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Could you wear it outside?</p> <p>19 A. No, sir.</p> <p>20 Q. So if you went outside you had to take your</p> <p>21 hair net off?</p> <p>22 A. Yes, sir.</p> <p>23 Q. What would you do with it? put it in your</p>    | <p style="text-align: right;">32</p> <p>1 Q. And would everyone working in your</p> <p>2 particular area in rehang be released to leave at</p> <p>3 the same time?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And can you describe for me what you would</p> <p>6 do at the end of your shift after you would leave</p> <p>7 the line?</p> <p>8 A. Sanitize. I would go to the wash station</p> <p>9 and wash everything off.</p> <p>10 Q. When you say you would wash everything off,</p> <p>11 what would you wash?</p> <p>12 A. Apron, sleeves.</p> <p>13 Q. Your gloves?</p> <p>14 A. Gloves.</p> <p>15 Q. Anything else?</p> <p>16 A. That would be all.</p> <p>17 Q. And then what would you do?</p> <p>18 A. Go out the door and sanitize your boots</p> <p>19 again.</p> <p>20 Q. Would you take those items off?</p> <p>21 A. Yeah. Once you get in the break room, yeah.</p> <p>22 Q. Before you exited the production floor, what</p> <p>23 items would you take off, before you sanitized</p> |
| <p style="text-align: right;">31</p> <p>1 pocket?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Did you ever time yourself returning from</p> <p>4 break?</p> <p>5 A. No, sir.</p> <p>6 Q. How many breaks did you have over the course</p> <p>7 of a shift?</p> <p>8 A. Two.</p> <p>9 Q. Would you do pretty much the same thing</p> <p>10 before and after your second break?</p> <p>11 A. Yes, sir.</p> <p>12 Q. There wasn't really any difference between</p> <p>13 what you would do?</p> <p>14 A. No, sir.</p> <p>15 Q. Sir, when you were at the plant, were you a</p> <p>16 member of the union?</p> <p>17 A. No, sir.</p> <p>18 Q. Did you ever attend any union meetings?</p> <p>19 A. No, sir.</p> <p>20 Q. When you were working in rehang, how would</p> <p>21 you know when it was the end of your shift and you</p> <p>22 were approved to leave?</p> <p>23 A. The supervisor would tell us.</p> | <p style="text-align: right;">33</p> <p>1 your boots?</p> <p>2 A. I don't understand what you're talking</p> <p>3 about.</p> <p>4 Q. When you were at the end of your shift, when</p> <p>5 you were getting ready to leave, I think you told</p> <p>6 me that there were some things that you would wash</p> <p>7 or rinse; is that correct?</p> <p>8 A. Yes, sir.</p> <p>9 Q. After you finished that, would you take off</p> <p>10 any of these items?</p> <p>11 A. Yes, sir. Take it off, yes.</p> <p>12 Q. Would you take off your gloves and your</p> <p>13 sleeves and you apron?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Would you also take off your smock?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And then after that, is there anything else</p> <p>18 you would take off?</p> <p>19 A. That would be all.</p> <p>20 Q. And then you would leave the production</p> <p>21 floor?</p> <p>22 A. Yes, sir.</p> <p>23 Q. What would you do after you passed through</p>                           |



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|---|---|
| <p style="text-align: right;">34</p> <p>1 the doors and left the production floor?</p> <p>2 A. Sanitize your boots. Then I would go</p> <p>3 outside, then clock out and go home.</p> <p>4 Q. Where would you clock out?</p> <p>5 A. Debone area.</p> <p>6 Q. Same place where you would clock in?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Approximately how long would it take you</p> <p>9 from the time you left the line to the time you</p> <p>10 exited the production floor?</p> <p>11 A. I don't really know what time.</p> <p>12 Q. Sir, while you were working in rehang, do</p> <p>13 you have an understanding as to when the time for</p> <p>14 which you got paid started?</p> <p>15 A. The time you start and the time you go home?</p> <p>16 Q. I just want to know -- I'm just asking you</p> <p>17 about the time for starting. Do you know when the</p> <p>18 company would start paying you?</p> <p>19 A. No, sir.</p> <p>20 Q. Do you know at what point in time during the</p> <p>21 day the company would stop paying you?</p> <p>22 A. No, sir.</p> <p>23 Q. Do you know whether you were paid from the</p> | <p style="text-align: right;">36</p> <p>1 A. At 4:30.</p> <p>2 Q. And if you clocked out at three o'clock, do</p> <p>3 you believe that you were paid until three</p> <p>4 o'clock?</p> <p>5 A. No, sir.</p> <p>6 Q. Do you have an understanding as to when the</p> <p>7 time that you were paid ended?</p> <p>8 A. Most of the time we ended was at 2:30.</p> <p>9 Q. Would you get paid weekly when you worked at</p> <p>10 the plant?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And did you get a paycheck every week?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Would you check your paycheck to see the</p> <p>15 amount of hours for which you were paid?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Was there ever an occasion where you looked</p> <p>18 at your paycheck and you felt you weren't paid for</p> <p>19 all the hours you worked?</p> <p>20 A. Yes, sir.</p> <p>21 Q. How often did that happen?</p> <p>22 A. It happened a lot.</p> <p>23 Q. And when that would happen, would you raise</p> |
| <p style="text-align: right;">35</p> <p>1 time you clocked in until the time you clocked</p> <p>2 out?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Do you think you were paid from the time you</p> <p>5 clocked in until the time you clocked out?</p> <p>6 A. Yes, sir.</p> <p>7 Q. So if you clocked in at 7:20, you believe</p> <p>8 that you started being paid from 7:20?</p> <p>9 A. No, sir.</p> <p>10 Q. What time do you believe you started to be</p> <p>11 paid?</p> <p>12 A. At 7:30.</p> <p>13 Q. And if you clocked out at five o'clock, do</p> <p>14 you believe that you were paid until five o'clock?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Actually, I think you told me you worked</p> <p>17 night shift; is that correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. So if you clocked in at 4:20, do you believe</p> <p>20 you started to be paid at 4:20?</p> <p>21 A. No, sir.</p> <p>22 Q. What time do you believe you started to be</p> <p>23 paid?</p>   | <p style="text-align: right;">37</p> <p>1 it with your supervisor?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And what would happen?</p> <p>4 A. My supervisor most of the time would go to</p> <p>5 the office and see what had happened.</p> <p>6 Q. And these times when you claim that you</p> <p>7 weren't paid for all the hours that you worked,</p> <p>8 were those issues resolved?</p> <p>9 A. Not really.</p> <p>10 Q. Were you paid for extra time?</p> <p>11 A. No.</p> <p>12 Q. Was that part of what you are claiming in</p> <p>13 this lawsuit?</p> <p>14 A. Yes, sir.</p> <p>15 Q. I think those are all the questions I have</p> <p>16 for you, sir.</p> <p>17 MR. PETRO: That's all we have.</p> <p>18 MR. GOULD: Thank you for your time.</p> <p>19</p> <p>20 (The deposition was concluded.)</p> <p>21</p> <p>22</p> <p>23</p>  |

38

## 1 CERTIFICATE

2  
3 STATE OF ALABAMA  
4 BARBOUR COUNTY  
56 I hereby certify that the above and  
7 foregoing deposition was taken down by me in  
8 stenotype and the questions and answers thereto  
9 were transcribed by means of computer-aided  
10 transcription, and that the foregoing represents  
11 a true and correct transcript of the testimony  
12 given by said witness upon said hearing.13 I further certify that I am neither of  
14 counsel, nor kin to the parties to the action,  
15 nor am I in anywise interested in the result of  
16 said cause.  
1718  
19 CYNTHIA M. NOAKES, Commissioner  
20 Certified Court Reporter,  
21 ACCR #327 - Expires 09/30/2008  
22

23 Commission Expires 07/08/2009

**TAB 51**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

CASE NUMBER: 2:06-CV-01081-MEF-DRB

BETTY ANN BURKS, ET AL.,

Plaintiffs,

vs.

EQUITY GROUP, EUFAULA DIVISION, L.L.C.,

Defendant.

S T I P U L A T I O N

IT IS STIPULATED AND AGREED by and  
between the parties through their respective  
counsel, that the deposition of Robin  
Stevens may be taken before Sara Mahler,  
CCR, at the offices of Williams, Pothoff,  
Williams & Smith, at 125 South Orange  
Avenue, Eufaula, Alabama 36027, on the 12th  
day of June, 2008.

DEPOSITION OF ROBIN STEVENS

|   |   |
|---|---|
| <p style="text-align: right;">2</p> <p>1 IT IS FURTHER STIPULATED AND</p> <p>2 AGREED that the signature to and the reading</p> <p>3 of the deposition by the witness is not</p> <p>4 waived, the deposition to have the same</p> <p>5 force and effect as if full compliance had</p> <p>6 been had with all laws and rules of Court</p> <p>7 relating to the taking of depositions.</p> <p>8 IT IS FURTHER STIPULATED AND</p> <p>9 AGREED that it shall not be necessary for</p> <p>10 any objections to be made by counsel to any</p> <p>11 questions except as to form or leading</p> <p>12 questions, and that counsel for the parties</p> <p>13 may make objections and assign grounds at</p> <p>14 the time of the trial, or at the time said</p> <p>15 deposition is offered in evidence, or prior</p> <p>16 thereto.</p> <p>17 IT IS FURTHER STIPULATED AND</p> <p>18 AGREED that the notice of filing of the</p> <p>19 deposition by the Commissioner is waived.</p> <p>20</p> <p>21 * * * * *</p> <p>22</p> <p>23</p> | <p style="text-align: right;">4</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE MIDDLE DISTRICT OF ALABAMA</p> <p>3 MONTGOMERY DIVISION</p> <p>4</p> <p>5 CASE NUMBER: 2:06-CV-01081-MEF-DRB</p> <p>6</p> <p>7 BETTY ANN BURKS, ET AL.,</p> <p>8 Plaintiffs,</p> <p>9 vs.</p> <p>10 EQUITY GROUP EUFAULA DIVISION, L.L.C.,</p> <p>11 Defendant.</p> <p>12</p> <p>13 BEFORE:</p> <p>14 SARA MAHLER, Commissioner.</p> <p>15</p> <p>16 APPEARANCES:</p> <p>17 CANDIS A. MCGOWAN, ESQUIRE, of</p> <p>18 WIGGINS, CHILDS, QUINN &amp; PANTAZIS, 301</p> <p>19 Nineteenth Street North, Birmingham, Alabama</p> <p>20 35203, appearing on behalf of the</p> <p>21 Plaintiffs.</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 * * * * *</p> <p>2 I N D E X</p> <p>3 E X A M I N A T I O N</p> <p>4 P A G E</p> <p>5 By Ms. McGowan ..... 7</p> <p>6</p> <p>7</p> <p>8 (There Were No Exhibits Marked)</p> <p>9</p> <p>10</p> <p>11 * * * * *</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES: (Cont.)</p> <p>2 JACOB A. KISER, ESQUIRE, of</p> <p>3 WIGGINS, CHILDS, QUINN &amp; PANTAZIS, 301</p> <p>4 Nineteenth Street North, Birmingham, Alabama</p> <p>5 35203, appearing on behalf of the</p> <p>6 Plaintiffs.</p> <p>7 ROBERT J. CAMP, ESQUIRE, of THE</p> <p>8 COCHRAN FIRM, 505 North 20th Street, Suite</p> <p>9 825, Birmingham, Alabama 35203, appearing on</p> <p>10 behalf of the Plaintiffs.</p> <p>11 HOWARD A. ROSENTHAL, ESQUIRE, of</p> <p>12 PELINO &amp; LENTZ, 1650 Market Street,</p> <p>13 Thirty-Second Floor, Philadelphia,</p> <p>14 Pennsylvania 19103, appearing on behalf of</p> <p>15 the Defendant.</p> <p>16</p> <p>17 * * * * *</p> <p>18</p> <p>19 I, SARA MAHLER, CCR, a Court</p> <p>20 Reporter of Wetumpka, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Federal Rules of Civil</p> <p>23 Procedure and the foregoing stipulation of</p> |

6  
1 counsel, there came before me at the offices  
2 of Williams, Pothoff, Williams & Smith, 125  
3 South Orange Avenue, Eufaula, Alabama 36027,  
4 beginning at 8:30 a.m., Robin Stevens,  
5 witness in the above cause, for oral  
6 examination, whereupon the following  
7 proceedings were had:  
8 ROBIN STEVENS,  
9 being first duly sworn, was examined and  
10 testified as follows:  
11 COURT REPORTER: Usual  
12 stipulations?  
13 MS. MCGOWAN: Yes.  
14 MR. ROSENTHAL: We're going to  
15 reserve reading and signing.  
16 MS. MCGOWAN: Okay. We may  
17 have a -- for the summary judgment response,  
18 it may be -- I don't think you will have  
19 time to read and sign before we file the  
20 transcript.  
21 MR. ROSENTHAL: I wouldn't  
22 think so.  
23 EXAMINATION

7  
1 BY MS. MCGOWAN:  
2 Q. State your name for the  
3 Record, please.  
4 A. Robin Stevens.  
5 Q. And Robin, is that R-O-B-I-N?  
6 A. Correct.  
7 Q. S-T-E-V-E-N-S?  
8 A. Correct.  
9 Q. Give me your address, where do  
10 you live?  
11 A. 5479 County Road 3319, Troy,  
12 Alabama 36079.  
13 Q. Where are you employed?  
14 A. Equity Group.  
15 Q. How long have you been with  
16 Equity Group?  
17 A. Since September of '04.  
18 Q. What is your job position?  
19 A. Plant manager.  
20 Q. Which plant?  
21 A. Fresh plant.  
22 Q. And how do you define fresh  
23 plant?

8  
1 A. It's where we bring live birds  
2 in, slaughter them, and take them through  
3 the deboning process.  
4 Q. Some people refer to that as  
5 the live kill plant?  
6 A. That would be a live kill  
7 plant, yes, ma'am.  
8 Q. It's also been referred to as  
9 a debone plant. Is that a plant within your  
10 plant, or is that just a department within  
11 your plant, or is that a separate plant?  
12 A. That would be a department.  
13 Q. That was within your plant?  
14 A. Yes, ma'am.  
15 Q. And where is this plant  
16 located?  
17 A. Baker Hill.  
18 Q. How long have you been the  
19 plant manager?  
20 A. Since '05. I don't remember  
21 the month, but since '05.  
22 Q. Was it the middle of the year,  
23 the first of the year?

9  
1 Do you remember about the  
2 season, if that will help?  
3 A. I'm going to say sometime in  
4 spring, maybe early summer, the best I can  
5 recall.  
6 Q. You said you started in  
7 September of '04 with Equity?  
8 A. I did.  
9 Q. What was your first position  
10 in September of '04 when you first started?  
11 A. Quality assurance manager.  
12 Q. For which plant?  
13 A. At the time, it was both  
14 plants, fresh and further processing.  
15 Q. When you say at the time, did  
16 it change?  
17 A. No, ma'am, it didn't. It  
18 didn't change.  
19 Q. So you stayed the QA manager  
20 for both the fresh plant and the further  
21 processing plant from September until  
22 when -- of '04 until when?  
23 A. Until I took over as plant

| 10  | 12   |
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| <p>1 manager.<br/>2 Q. Give me your educational<br/>3 background.<br/>4 A. I have a BS degree in animal<br/>5 and dairy science, Auburn University.<br/>6 Q. War Eagle. When did you<br/>7 obtain your BS?<br/>8 A. 1992.<br/>9 Q. What was your first job after<br/>10 college?<br/>11 A. I worked for a temporary<br/>12 agency.<br/>13 Q. What temporary agency and<br/>14 where was it located?<br/>15 A. I don't recall the name, but<br/>16 it was in Hartselle, Alabama.<br/>17 Q. Are you from Hartselle?<br/>18 A. I am from Decatur.<br/>19 Q. What did you do for the temp<br/>20 agency?<br/>21 A. I worked at Wolverine Tube<br/>22 Company in Decatur, Alabama.<br/>23 Q. What did you do for Wolverine</p> | <p>1 Q. What position?<br/>2 A. Quality assurance supervisor.<br/>3 Q. Did you leave Wolverine Tube<br/>4 on your own or were you asked to leave or<br/>5 was there a layoff or anything? Why did you<br/>6 leave Wolverine Tube?<br/>7 A. For the opportunity to get<br/>8 into management, a salary position at Wayne<br/>9 Farms.<br/>10 Q. When did you start Wayne<br/>11 Farms?<br/>12 A. March of 1993.<br/>13 Q. How long were you with Wayne<br/>14 Farms?<br/>15 A. Until January of 1997.<br/>16 Q. Did you hold the same position<br/>17 the entire time?<br/>18 A. No.<br/>19 Q. Okay. Let's go through your<br/>20 positions you held. Your first was QA<br/>21 supervisor?<br/>22 A. Correct.<br/>23 Q. How many employees did you</p>        |
| 11  | 13   |
| <p>1 Tube?<br/>2 A. Just a general laborer.<br/>3 Q. What do they make? Is it<br/>4 steel tubes?<br/>5 A. Copper tubing.<br/>6 Q. How long did you work for<br/>7 Wolverine Tube?<br/>8 A. I don't remember.<br/>9 Q. Was it a short time? A year,<br/>10 longer?<br/>11 A. I want to say somewhere around<br/>12 six months.<br/>13 Q. Was the whole time through the<br/>14 temp agency or did you ever become a<br/>15 permanent employee?<br/>16 A. It was through the temporary<br/>17 agency.<br/>18 Q. Then what did you do after you<br/>19 left Wolverine Tube?<br/>20 A. I went to work for Wayne<br/>21 Farms.<br/>22 Q. Where?<br/>23 A. Decatur, Alabama.</p>  | <p>1 supervise?<br/>2 A. I don't recall the exact<br/>3 number, but somewhere between fifteen and<br/>4 twenty-five.<br/>5 Q. Were these all QA employees?<br/>6 A. Yes.<br/>7 Q. And when we say QA, we're<br/>8 talking about quality assurance?<br/>9 A. Yes.<br/>10 Q. Just so the Record will be<br/>11 clear.<br/>12 A. Okay.<br/>13 Q. How long were you the QA<br/>14 supervisor?<br/>15 A. The best that I can remember,<br/>16 I was a QA supervisor until the fall of '93.<br/>17 Q. Then what happened?<br/>18 A. I was promoted to quality<br/>19 assurance manager.<br/>20 Q. And how long were you the<br/>21 quality assurance manager for Wayne Farms?<br/>22 A. I was a QA manager until I<br/>23 left the company in January of 1997.</p> |



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|--|---|
| <p style="text-align: right;">14</p> <p>1 Q. Why did you leave the company<br/>2 in January of 1977?<br/>3 MR. ROSENTHAL: '97.<br/>4 Q. '97, I'm sorry.<br/>5 A. I went to work for ConAgra<br/>6 Foods.<br/>7 Q. Where?<br/>8 A. Enterprise, Alabama.<br/>9 Q. What position?<br/>10 A. Quality assurance manager.<br/>11 Q. Was this a lateral transfer?<br/>12 A. Yes.<br/>13 Q. Did you leave voluntarily from<br/>14 Wayne Foods (sic)?<br/>15 A. Yes.<br/>16 Q. Who was your supervisor when<br/>17 you left at Wayne -- your last supervisor at<br/>18 Wayne Foods? Or to whom did you report?<br/>19 A. Sandy Bishop.<br/>20 Q. What was Sandy Bishop's title?<br/>21 A. I don't recall her exact<br/>22 title, but she was over the QA managers.<br/>23 She worked in the corporate office.</p>                               | <p style="text-align: right;">16</p> <p>1 Q. What happened then?<br/>2 A. Termination.<br/>3 Q. Why were you terminated?<br/>4 A. It was some general things.<br/>5 At the time that I was terminated, I was a<br/>6 plant -- I was operations manager of that<br/>7 facility.<br/>8 Q. When you say general things,<br/>9 can you give me more specific information?<br/>10 A. There was just some processing<br/>11 inefficiencies and some goals that were not<br/>12 met.<br/>13 Q. How long had you been<br/>14 operations manager?<br/>15 A. At that time, approximately<br/>16 two years.<br/>17 Q. What other positions did you<br/>18 hold at ConAgra besides -- Let's just back<br/>19 up. You started as the QA manager in<br/>20 January of '97?<br/>21 A. Correct.<br/>22 Q. How long were you QA manager<br/>23 at ConAgra Foods in Enterprise?</p>   |
| <p style="text-align: right;">15</p> <p>1 Q. Where is the corporate office?<br/>2 A. Duluth, Georgia.<br/>3 Q. When you went to ConAgra Foods<br/>4 in January of 1997 as the QA manager, to<br/>5 whom did you report?<br/>6 A. Ted Simmons.<br/>7 Q. What was Ted Simmons' job?<br/>8 A. General manager.<br/>9 Q. Was there one plant or was it<br/>10 a complex in Enterprise? When you say he<br/>11 was general manager, he was general manager<br/>12 of what?<br/>13 A. One plant.<br/>14 Q. What kind of plant?<br/>15 A. Slaughter plant.<br/>16 Q. And I'm just assuming, and<br/>17 that's probably bad, but Wayne Farms was a<br/>18 slaughter plant also?<br/>19 A. Yes, ma'am.<br/>20 Q. How long were you with ConAgra<br/>21 Foods in Enterprise?<br/>22 A. Summer of '04, I believe the<br/>23 month was August.</p> | <p style="text-align: right;">17</p> <p>1 A. I don't recall how long I was<br/>2 the QA manager.<br/>3 Q. What was your next position<br/>4 there?<br/>5 A. I was promoted to a second<br/>6 processing manager.<br/>7 Q. Second processing, tell me<br/>8 what that is at ConAgra Foods.<br/>9 A. ConAgra Foods was a fast food<br/>10 operation where they took the birds and cut<br/>11 them up into parts and sold them as fast<br/>12 food parts to fast food stores.<br/>13 Q. Such as McDonald's or Burger<br/>14 King and things like that?<br/>15 A. No, ma'am. It would have been<br/>16 Kentucky Fried Chicken or Popeye's or<br/>17 Hardee's at the time. And I was over both<br/>18 shifts of that operation in those<br/>19 departments.<br/>20 Q. How long were you the -- or<br/>21 the further processing manager -- shift<br/>22 manager, is that what you said?<br/>23 A. Second processing manager.</p> |

| 18   | 20  |
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| <p>1 Q. Second processing manager.<br/>2 A. I don't recall when I was<br/>3 promoted.<br/>4 Q. What was the next position?<br/>5 A. Went into the operations<br/>6 manager.<br/>7 Q. In the organizational<br/>8 structure for ConAgra Foods, was operations<br/>9 manager over the general manager or how did<br/>10 that work?<br/>11 A. No. The general manager was<br/>12 over the operations manager.<br/>13 Q. And then to whom did the<br/>14 general manager report?<br/>15 A. I don't recall titles. We<br/>16 reported to someone in the corporate office.<br/>17 Q. The general manager was the<br/>18 facilities manager or the plant manager?<br/>19 A. He was over the facility.<br/>20 Q. Then you went to work for<br/>21 Equity?<br/>22 A. Yes.<br/>23 Q. I think we've already</p> | <p>1 early summer of '05?<br/>2 A. Yes.<br/>3 Q. When you say complex QA<br/>4 manager, what do you mean by complex?<br/>5 A. I was responsible for the<br/>6 quality assurance department in both<br/>7 facilities, in both fresh processing and<br/>8 further processing.<br/>9 Q. Now you just have<br/>10 responsibility for the fresh processing?<br/>11 A. Yes.<br/>12 Q. Not further processing?<br/>13 A. Yes.<br/>14 Q. Who is the plant manager for<br/>15 the further processing?<br/>16 A. Mike Cortner.<br/>17 Q. Mike who?<br/>18 A. Cortner.<br/>19 Q. Can you spell that?<br/>20 A. C-O-R-T-N-E-R.<br/>21 Q. To whom do you report as plant<br/>22 manager?<br/>23 A. The operations manager.</p>   |
| 19   | 21  |
| <p>1 discussed your jobs with Equity. Or have<br/>2 you told me?<br/>3 What was your first job with<br/>4 Equity?<br/>5 A. QA manager.<br/>6 Q. And now you are the plant<br/>7 manager?<br/>8 A. Yes.<br/>9 Q. Have you held any other<br/>10 positions with Equity?<br/>11 A. Yes.<br/>12 Q. What others?<br/>13 A. I was promoted to complex QA<br/>14 manager.<br/>15 Q. When were you complex QA<br/>16 manager?<br/>17 A. The best that I can recall, I<br/>18 think it was the fall of '04.<br/>19 Q. How long were you the complex<br/>20 QA manager?<br/>21 A. Until I took over the position<br/>22 as plant manager.<br/>23 Q. And that was since spring or</p>   | <p>1 Q. That's Greg Mills?<br/>2 A. Correct.<br/>3 Q. Let me backup just a little<br/>4 bit because we just jumped into this<br/>5 deposition. I didn't ask you: Have you<br/>6 ever had your deposition taken before?<br/>7 A. No ma'am.<br/>8 Q. As you see, I'm asking you a<br/>9 series of questions, and you're going to<br/>10 need to give a verbal response so the court<br/>11 reporter can make a Record. And then in<br/>12 everyday conversation we'll shake our heads<br/>13 yes, or we'll say uh-huh. But can you make<br/>14 sure and say yes or no if that's the answer,<br/>15 so the court reporter can make a Record?<br/>16 A. I will.<br/>17 Q. If at any point you don't hear<br/>18 me because I tend to look down and talk<br/>19 softly or if you don't understand what I<br/>20 said, could you ask me to repeat or rephrase<br/>21 the question?<br/>22 A. I will.<br/>23 Q. Can we have an understanding</p> |

|   |  |
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| <p style="text-align: right;">22</p> <p>1 that if you don't ask me to repeat or<br/>2 rephrase the question, that you heard my<br/>3 question, you understand my question, and<br/>4 you've given me the best possible answer to<br/>5 that question?<br/>6 A. Yes.<br/>7 Q. What did you do to prepare for<br/>8 this deposition?<br/>9 A. Nothing.<br/>10 Q. Did you review any documents?<br/>11 A. No.<br/>12 Q. Did you look at any documents?<br/>13 A. No.<br/>14 Q. Did you look at any other<br/>15 employee's testimony?<br/>16 A. No.<br/>17 Q. Or deposition transcripts?<br/>18 A. No.<br/>19 Q. Do you know what this<br/>20 lawsuit's about?<br/>21 A. Yes.<br/>22 Q. What is your understanding of<br/>23 this lawsuit?</p>   | <p style="text-align: right;">24</p> <p>1 another one he can look at while I --<br/>2 MR. ROSENTHAL: P-16?<br/>3 MS. MCGOWAN: Yes.<br/>4 Q. Let me show what you we marked<br/>5 as Plaintiff's Exhibit 16, and this appears<br/>6 to be an Equity Group, Eufaula Division,<br/>7 organizational chart. Would you agree with<br/>8 me on that?<br/>9 A. Yes.<br/>10 Q. And the first page, if I can<br/>11 read, it's kind of dark, but is that your<br/>12 name as the fresh plant manager at the top?<br/>13 A. Yes.<br/>14 Q. Okay. Is this how the fresh<br/>15 plant is organized?<br/>16 A. Yes.<br/>17 Q. Okay. What departments are in<br/>18 the fresh plant?<br/>19 A. First processing.<br/>20 Q. Which includes what?<br/>21 A. It's where the birds are<br/>22 slaughtered, eviscerated, and inspected by<br/>23 USDA.</p>                                |
| <p style="text-align: right;">23</p> <p>1 A. I don't have a very good<br/>2 understanding about it. I know it's about<br/>3 donning and doffing, that's all I know.<br/>4 Q. What about donning and<br/>5 doffing? Do you know what the employees are<br/>6 claiming or asking for with regards to<br/>7 donning and doffing?<br/>8 A. No.<br/>9 Q. What is your under -- your<br/>10 definition of donning and doffing?<br/>11 A. Putting on and taking off<br/>12 clothing.<br/>13 Q. Have you been involved in any<br/>14 union negotiations?<br/>15 A. No.<br/>16 Q. Not just at Equity, have you<br/>17 been involved in any union negotiations at<br/>18 any of the plants in which you've worked?<br/>19 A. No.<br/>20 Q. Have you attended any union<br/>21 negotiations?<br/>22 A. No.<br/>23 MS. MCGOWAN: Do you have</p> | <p style="text-align: right;">25</p> <p>1 Q. USDA is not an employee --<br/>2 that's not -- those employees, they are not<br/>3 employees of Equity, they're separate; is<br/>4 that correct?<br/>5 A. Yes.<br/>6 Q. Anything -- Any other<br/>7 functions done in first processing?<br/>8 A. No.<br/>9 Q. All right. How many shifts<br/>10 are at the plant?<br/>11 A. Three.<br/>12 Q. What are those shifts?<br/>13 A. We have two processing shifts<br/>14 and one sanitation shift.<br/>15 Q. What is the processing -- The<br/>16 first processing shift, what are the hours<br/>17 for that?<br/>18 A. Which department?<br/>19 Q. Is there like a general range?<br/>20 Let me ask you this. If you are an<br/>21 employee, it doesn't matter what department<br/>22 you're in, but, like, first processing<br/>23 shift, is it like -- does it go from a</p> |

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| <p style="text-align: right;">26</p> <p>1 certain time to a certain time, but it may<br/>2 vary depending on what department you're in;<br/>3 and then a second shift will start at<br/>4 another time; or is sanitation in between<br/>5 the two shifts? Or how does that work?<br/>6 You said you've got two shifts<br/>7 and a sanitation shift, is that -- is<br/>8 sanitation between the shifts, or is that<br/>9 after the second shift?<br/>10 MR. ROSENTHAL: I'm going to<br/>11 object to the form of the question because<br/>12 I'm not sure -- I think you asked about six<br/>13 questions there.<br/>14 MS. MCGOWAN: I know.<br/>15 Q. Let me find out: Where is<br/>16 sanitation shift? Is it between the two<br/>17 shifts or is it after the two shifts?<br/>18 A. After.<br/>19 Q. Okay. What time does<br/>20 sanitation shift start?<br/>21 A. When the second shift is<br/>22 complete.<br/>23 Q. Is there generally a range</p> | <p style="text-align: right;">28</p> <p>1 Q. So first shift runs anywhere<br/>2 from 5:50 to 4:30, if everything operates<br/>3 smoothly?<br/>4 A. Correct.<br/>5 Q. What time would second shift<br/>6 begin, if everything's operating smoothly?<br/>7 A. 4:30.<br/>8 Q. Would that be live hang?<br/>9 A. That would be deboning.<br/>10 Q. What departments operate on<br/>11 second shift?<br/>12 A. Live hang, evisceration,<br/>13 salvage.<br/>14 Q. The whole plant?<br/>15 A. The whole plant.<br/>16 Q. So when would second shift<br/>17 live hang start?<br/>18 A. 2:50 p.m.<br/>19 Q. Is that the first group of<br/>20 employees that would report to second shift?<br/>21 A. Yes.<br/>22 Q. So second shift would range<br/>23 between 2:50 and when? What's the last time</p>   |
| <p style="text-align: right;">27</p> <p>1 about when it should start? I know<br/>2 sometimes you run over, but is it -- If you<br/>3 work on sanitation shift, do you have an<br/>4 idea about when you will report to work?<br/>5 A. They would start cleaning<br/>6 first processing 11:30, twelve o'clock.<br/>7 Q. And that's p.m.?<br/>8 A. Yes.<br/>9 Q. 11:30 p.m. If you are an<br/>10 employee working on first shift, what is the<br/>11 first department that begins working on<br/>12 first shift?<br/>13 A. Live hang.<br/>14 Q. What would be the time you<br/>15 would start on that shift?<br/>16 A. 5:50.<br/>17 Q. What is the last department on<br/>18 first shift?<br/>19 A. Which department?<br/>20 Q. The last -- Employees that<br/>21 would be the last to leave the plant on<br/>22 first shift?<br/>23 A. Their shift would end at 4:30.</p>  | <p style="text-align: right;">29</p> <p>1 an employee would get off on the second<br/>2 shift?<br/>3 A. When we're through processing<br/>4 birds.<br/>5 Q. And is there an average time,<br/>6 or a normal time, if everything's running<br/>7 smoothly?<br/>8 A. Evisceration would get off at<br/>9 eleven o'clock, which would be first<br/>10 processing and deboning, two o'clock in the<br/>11 morning.<br/>12 Q. So sanitation is doing<br/>13 different departments at 11:30, while you<br/>14 have the last departments of deboning and<br/>15 evisceration operating on the second shift?<br/>16 A. Sanitation would be cleaning<br/>17 first processing if it is finished, while<br/>18 deboning will continue to operate.<br/>19 Q. What are the departments as<br/>20 you say -- Let's go from the when the bird<br/>21 enters the plant until it leaves the plant,<br/>22 walk me through the departments. Of course<br/>23 you have live hang.</p> |

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| <p>1 A. You have live hang.<br/>2 Q. Is that the first department?<br/>3 A. Yes.<br/>4 Q. Okay.<br/>5 A. The next department would be<br/>6 evisceration department, and then there's<br/>7 the salvage department. We have a paw room<br/>8 department. And then we have the deboning,<br/>9 pack out, shipping, DSI.<br/>10 Q. What is DSI?<br/>11 A. It's a portioning department.<br/>12 It is separate from the deboning department.<br/>13 Q. Any others?<br/>14 A. (Witness shakes head in the<br/>15 negative.)<br/>16 Q. Is DSI before shipping and<br/>17 pack out, in the line or is it -- where is<br/>18 it in the line?<br/>19 A. It would be before shipping.<br/>20 Q. How many employees are<br/>21 employed at the fresh plant facility, total,<br/>22 all shifts?<br/>23 A. I don't know an exact number.</p> | <p>1 A. Yes.<br/>2 Q. What does she do as production<br/>3 coordinator?<br/>4 A. She schedules the plant on<br/>5 what products to produce. Bobby Barnett.<br/>6 Q. What does he do?<br/>7 A. Bobby's responsible for first<br/>8 processing, both shifts.<br/>9 Q. All right.<br/>10 A. Russel Spivey.<br/>11 Q. And what does Russel Spivey<br/>12 do?<br/>13 A. He's responsible for shipping.<br/>14 Q. All right.<br/>15 A. James Henderson.<br/>16 Q. What does James Henderson do?<br/>17 A. He's responsible for<br/>18 transportation. And Ricky Lewis.<br/>19 Q. What does Ricky do?<br/>20 A. He's responsible for debone<br/>21 and DSI.<br/>22 Q. So he has dual departments?<br/>23 A. Yes.</p>  |
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| <p>1 Q. Do you know how many employees<br/>2 per shift?<br/>3 A. I don't know an exact number.<br/>4 Q. Do you know an approximate<br/>5 number of total employees of all shifts?<br/>6 A. An approximate number would be<br/>7 thirteen hundred.<br/>8 Q. That's all three shifts?<br/>9 A. That would be the two<br/>10 processing shifts.<br/>11 Q. Approximately how many<br/>12 sanitation shift employees?<br/>13 A. Eighty-five.<br/>14 Q. Looking at Exhibit 16, does<br/>15 this accurately reflect the direct reports<br/>16 to you?<br/>17 A. Yes.<br/>18 Q. All right. How many direct<br/>19 reports do you have?<br/>20 A. Five.<br/>21 Q. Tell me those.<br/>22 A. Sharon Bouyer.<br/>23 Q. Is she production coordinator?</p>  | <p>1 Q. Are debone and DSI located<br/>2 near each other?<br/>3 A. They're in the same building.<br/>4 Q. I've got a map here. It's<br/>5 kind of hard to read, but -- And we've<br/>6 previously marked it as exhibit --<br/>7 MR. ROSENTHAL: 22.<br/>8 MS. MCGOWAN: Is it 22? I<br/>9 can't find the sticker on it. There it is.<br/>10 Q. Can you tell me where DSI is,<br/>11 if it's on here?<br/>12 A. Right here (indicating).<br/>13 Q. Can you write DSI, or is it<br/>14 already on there?<br/>15 MR. ROSENTHAL: It's already<br/>16 there.<br/>17 Q. Right there?<br/>18 A. Yes.<br/>19 Q. Okay. And you said it's in<br/>20 the same building. But debone is in the<br/>21 same building with the rest of the fresh<br/>22 kill or is it in a separate building?<br/>23 A. What I'm talking about is, we</p> |

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| <p>1 separate first processing from second<br/>2 processing with a wall, and it's in the same<br/>3 area.<br/>4 Q. Okay. But debone, DSI, and<br/>5 fresh kill are all in the same actual<br/>6 physical building, they're just different<br/>7 departments within the building, so that I'm<br/>8 correct?<br/>9 A. Yes.<br/>10 Q. Okay. All right. Thanks.<br/>11 In the organizational<br/>12 structure, you have supervisors -- or<br/>13 actually you have managers reporting to you.<br/>14 What's the next level down?<br/>15 A. Superintendent.<br/>16 Q. And what does the<br/>17 superintendent do?<br/>18 A. Responsible for specific<br/>19 departments.<br/>20 Q. And then under the<br/>21 superintendent, what do you have?<br/>22 A. Supervisors.<br/>23 Q. What do the supervisors do?</p> | <p>1 A. Two.<br/>2 Q. Then it goes to salvage?<br/>3 A. Salvage is a department within<br/>4 evisceration.<br/>5 Q. How many lines are in the paw<br/>6 room department?<br/>7 A. There's no actual lines. It's<br/>8 where they pack out the paws.<br/>9 Q. And where does it go from<br/>10 salvage or evisceration?<br/>11 A. To the chiller.<br/>12 Q. How many lines are in the<br/>13 chiller?<br/>14 A. There's no lines. It's two<br/>15 chillers, water chillers.<br/>16 Q. Then it goes to where?<br/>17 A. Deboning.<br/>18 Q. How many lines are in<br/>19 deboning?<br/>20 A. What specific lines?<br/>21 Q. Okay. Tell me what's in<br/>22 deboning.<br/>23 A. There's two overhead lines, to</p>   |
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| <p>1 A. They're responsible for a<br/>2 specific line or an area within that<br/>3 department.<br/>4 Q. How many lines are there?<br/>5 A. What lines?<br/>6 Q. Are there different -- Does it<br/>7 vary based on department?<br/>8 A. Yes.<br/>9 Q. All right. And live -- And<br/>10 the first part of the plant, you call that<br/>11 first processing?<br/>12 A. Yes.<br/>13 Q. How many lines are in live<br/>14 kill or live hanging?<br/>15 A. Just one.<br/>16 Q. Okay. Then it goes into --<br/>17 Walk me through the plant as chicken goes<br/>18 through and walk me through the lines.<br/>19 It goes from live hang to<br/>20 where?<br/>21 A. Evisceration.<br/>22 Q. How many lines are in<br/>23 evisceration?</p>  | <p>1 rehang.<br/>2 Q. To rehang?<br/>3 A. Yes.<br/>4 Q. Then what happens?<br/>5 A. With what part of the bird?<br/>6 Q. You tell me. I want you to<br/>7 describe what goes on as the bird goes<br/>8 through. I don't know.<br/>9 A. The bird is halved and the<br/>10 front half drops off to a -- it feeds to the<br/>11 debone line.<br/>12 Q. Is that a machine that halves<br/>13 them?<br/>14 A. Yes.<br/>15 There are eight debone lines.<br/>16 Q. Eight debone lines?<br/>17 A. Uh-huh. And the rear half of<br/>18 the bird stays on the line and goes to leg<br/>19 quarter pack out.<br/>20 Q. How many lines are in the leg<br/>21 quarter pack out?<br/>22 A. There's five areas for the<br/>23 dark meat to drop off to be packaged.</p> |



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| <p style="text-align: right;">38</p> <p>1 Q. If it doesn't go on the<br/>2 overhead, it stays on -- are there lines<br/>3 that it stays on below?<br/>4 When you say it stays on the<br/>5 overhead, what do you call that in debone?<br/>6 Is that where they put it on the cones or do<br/>7 you use the cones?<br/>8 A. The birds are rehung out of<br/>9 the chiller on a line.<br/>10 Q. Okay. But I'm talking about<br/>11 debone, how is it set up. Explain that to<br/>12 me.<br/>13 You said there are eight<br/>14 debone lines.<br/>15 A. The front half is placed on<br/>16 the moving cones.<br/>17 Q. All right. And pack out, are<br/>18 there lines there or is it just a belt going<br/>19 through?<br/>20 A. Again, you're going to have<br/>21 to --<br/>22 Q. Tell me what's in pack out.<br/>23 Are there departments within pack out?</p> | <p style="text-align: right;">40</p> <p>1 it the superintendent or the supervisor<br/>2 that's responsible for editing employees'<br/>3 time on a daily basis?<br/>4 A. Supervisors.<br/>5 Q. Supervisors?<br/>6 A. Uh-huh.<br/>7 Q. Do you have any responsibility<br/>8 with regards to the editing of the time for<br/>9 employees?<br/>10 A. I do not edit time sheets.<br/>11 Q. Do you review the daily time<br/>12 information?<br/>13 A. No.<br/>14 Q. Do you review it weekly?<br/>15 A. No.<br/>16 Q. Do you review it monthly?<br/>17 A. No.<br/>18 Q. Do you review it ever?<br/>19 A. No.<br/>20 Q. Who is responsible for<br/>21 reviewing the time information, time sheets<br/>22 for employees?<br/>23 A. Supervisors.</p>  |
| <p style="text-align: right;">39</p> <p>1 A. Yes.<br/>2 Q. What departments are within<br/>3 pack out?<br/>4 A. Leg quarter, wings, tenders.<br/>5 Q. Is that it?<br/>6 A. Uh-huh. Yes.<br/>7 Q. And leg quarters, are there --<br/>8 How many lines or areas are in leg quarter?<br/>9 A. Five.<br/>10 Q. Is it five lines?<br/>11 A. It's five bagging hoppers.<br/>12 Q. All right. What about wings,<br/>13 how many areas?<br/>14 A. Four.<br/>15 Q. And what are those?<br/>16 A. They're bagging hoppers as<br/>17 well.<br/>18 Q. What about tenders?<br/>19 A. One belt.<br/>20 Q. One belt?<br/>21 A. (Witness nods head in the<br/>22 affirmative.)<br/>23 Q. Within the plant, what -- is</p>   | <p style="text-align: right;">41</p> <p>1 Q. But above the supervisors, is<br/>2 there anyone to look at their raw numbers?<br/>3 A. Accounting.<br/>4 Q. Who is head of accounting?<br/>5 A. Joe Preston.<br/>6 Q. Do you know how the time<br/>7 system works at your plant?<br/>8 A. What specific part?<br/>9 Q. How the employees are paid.<br/>10 A. Paid off the Kronos system.<br/>11 Q. An employee comes to work in<br/>12 the morning. How do they make sure they're<br/>13 accounted for and their time's going to be<br/>14 paid?<br/>15 A. They need to clock in.<br/>16 Q. And where do they clock in?<br/>17 A. Time clocks.<br/>18 Q. Where are they located?<br/>19 A. Break rooms.<br/>20 Q. How many break rooms are<br/>21 there?<br/>22 A. Three break rooms. But the<br/>23 time clocks are in deboning and first</p> |



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| <p style="text-align: right;">42</p> <p>1 processing.</p> <p>2 Q. In the plant or in the break</p> <p>3 rooms?</p> <p>4 A. In the break room.</p> <p>5 Q. There's a separate break room</p> <p>6 for deboning?</p> <p>7 A. It's just what we call them.</p> <p>8 They're in the same hallway.</p> <p>9 Q. Can employees use either break</p> <p>10 room?</p> <p>11 A. Yes.</p> <p>12 Q. Are employees paid from their</p> <p>13 punch-in time to their punch-out time?</p> <p>14 A. It depends on the employee.</p> <p>15 Q. Production line employees, are</p> <p>16 they paid from punch-in to punch-out?</p> <p>17 A. If they are on a scheduled</p> <p>18 time or clock-in/clock-out, they would be</p> <p>19 paid from clock-in to clock-out.</p> <p>20 Q. What employees are on the</p> <p>21 clock-in to clock-out?</p> <p>22 A. I don't know specifics. But a</p> <p>23 lead person could be setting up on a</p>  | <p style="text-align: right;">44</p> <p>1 bargaining agreement.</p> <p>2 Q. You don't know which employees</p> <p>3 are covered?</p> <p>4 A. I don't know the specifics of</p> <p>5 it. I know there is a bargaining unit, but</p> <p>6 I don't know the specifics of it.</p> <p>7 Q. You don't know what job</p> <p>8 positions are covered by it?</p> <p>9 A. (Witness shakes head in the</p> <p>10 negative.)</p> <p>11 Q. You have to say yes or no.</p> <p>12 A. No. Not without looking at</p> <p>13 it.</p> <p>14 Q. I thought we marked it in.</p> <p>15 Let me show you what's been marked as</p> <p>16 Exhibit 12, and that's part of those, which</p> <p>17 is the union contract that's been provided</p> <p>18 to us.</p> <p>19 A. Uh-huh.</p> <p>20 Q. I'm not sure it's all of it.</p> <p>21 I think it's just parts of it.</p> <p>22 MS. MCGOWAN: Or is this the</p> <p>23 whole thing, this one?</p>  |
| <p style="text-align: right;">43</p> <p>1 clock-in/clock-out.</p> <p>2 Q. And any other type jobs that</p> <p>3 you know of that are on a clock-in to</p> <p>4 clock-out?</p> <p>5 A. I don't know.</p> <p>6 Q. Who would know?</p> <p>7 A. The supervisors that do the</p> <p>8 time sheets.</p> <p>9 Q. Who determines whether the</p> <p>10 employee is on a clock-in to clock-out? Who</p> <p>11 makes that determination?</p> <p>12 A. Specific departments are set</p> <p>13 up on master cards, but then a supervisor</p> <p>14 would designate employees to be on a</p> <p>15 clock-in/clock-out, if they were a setup</p> <p>16 person or somebody that stayed late.</p> <p>17 Q. Are the setup persons or the</p> <p>18 lead -- are they the same as the lead</p> <p>19 person?</p> <p>20 A. Some of them could be, yes.</p> <p>21 Q. Are they covered by the</p> <p>22 collective bargaining agreement?</p> <p>23 A. I don't know the details on</p> | <p style="text-align: right;">45</p> <p>1 MR. ROSENTHAL: This is just</p> <p>2 an excerpt. This is the 2004 to 2008</p> <p>3 contract.</p> <p>4 MS. MCGOWAN: I'm sorry. Do</p> <p>5 we have that one in?</p> <p>6 MR. ROSENTHAL: It was</p> <p>7 produced. I don't know if it was marked.</p> <p>8 Q. Well, do you know whether or</p> <p>9 not the bargaining unit changed from the</p> <p>10 2004 to the 2008 agreement?</p> <p>11 MR. ROSENTHAL: First, you</p> <p>12 have to answer that question. Do you know</p> <p>13 whether there's been any changes in the</p> <p>14 unit?</p> <p>15 A. There was changes in the pay.</p> <p>16 Q. I'm saying the unit.</p> <p>17 A. I don't know.</p> <p>18 Q. You don't know if people were</p> <p>19 added or taken away from it?</p> <p>20 A. I don't know.</p> <p>21 Q. Okay. Let me show you what</p> <p>22 was previously marked in a deposition for</p> <p>23 Jackie Davis as Defendant's Exhibit 4, and</p> |

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| <p>46</p> <p>1 that is the current union contract. And<br/>2 take a look at the coverage of the<br/>3 bargaining unit and compare it and see if<br/>4 there have been any changes, please, sir.<br/>5 A. (Witness complies.) There<br/>6 hasn't been any changes.<br/>7 Q. You said you knew there was<br/>8 changes to the pay. How did you know that?<br/>9 A. Because I reviewed those with<br/>10 my supervisors.<br/>11 Q. Who's your supervisor?<br/>12 A. With my supervisors.<br/>13 Q. You reviewed them with your<br/>14 supervisors?<br/>15 A. Uh-huh.<br/>16 Q. Who asked you to review it<br/>17 with your supervisors?<br/>18 A. I don't recall if anyone asked<br/>19 me to.<br/>20 Q. How did you learn that there<br/>21 were changes to the pay?<br/>22 A. Because I knew that there was<br/>23 a new contract negotiation, and I knew that</p> | <p>48</p> <p>1 handout about these are the new changes?<br/>2 A. Yeah. I had a signed copy of<br/>3 the document.<br/>4 Q. Of the contract?<br/>5 A. Yeah. Yes.<br/>6 Q. Did you, like, have a sheet --<br/>7 like, in addition to the contract saying:<br/>8 Here are the changes to this contract, or<br/>9 did you just give them all the new contract?<br/>10 A. I covered just what I thought<br/>11 was necessary for them to cover -- them to<br/>12 know about the contract, the supply changes<br/>13 and the wage rate changes.<br/>14 Q. Okay. Anything else you<br/>15 recall covering with them?<br/>16 A. Not that I recall.<br/>17 Q. Did you go over anything about<br/>18 paying for donning and doffing?<br/>19 A. No.<br/>20 Q. Or time keeping?<br/>21 A. Not that I remember.<br/>22 Q. Can I get that one back,<br/>23 please?</p>                             |
| <p>47</p> <p>1 it was supposed to change in March of this<br/>2 year.<br/>3 Q. Okay. But how did you learn<br/>4 of the actual changes?<br/>5 A. I don't recall if it was<br/>6 verbally or a piece of paper. I don't<br/>7 remember how it was told.<br/>8 Q. What did you learn were the<br/>9 changes?<br/>10 A. There was an increase in the<br/>11 starting wage rate.<br/>12 Q. What else?<br/>13 A. There was some changes in the<br/>14 amount of supplies that were going to be<br/>15 given to the employees.<br/>16 Q. Anything else that you went<br/>17 over with your supervisors?<br/>18 A. I don't recall to the extent<br/>19 of what all we went over.<br/>20 Q. Did you make notes?<br/>21 A. I don't recall making any<br/>22 notes.<br/>23 Q. Did you have -- given them a</p>   | <p>49</p> <p>1 A. Uh-huh.<br/>2 Q. Are you aware of any other job<br/>3 positions that are paid from clock-in to<br/>4 clock-out other than maybe a lead person or<br/>5 setup person?<br/>6 A. Not that I'm aware of.<br/>7 Q. Is there any reason why all<br/>8 employees can't be paid from clock-in to<br/>9 clock-out?<br/>10 A. Yes.<br/>11 Q. What is that reason?<br/>12 A. We pay them on line time.<br/>13 Q. But if you didn't use line<br/>14 time, is there any reason that would<br/>15 prohibit Equity from paying from clock-in to<br/>16 clock-out?<br/>17 A. You have to keep a handle on<br/>18 employees. If you paid them clock-in to<br/>19 clock-out, some of them would maybe sitting<br/>20 in the break room or out in their car, not<br/>21 actually working.<br/>22 Q. You could write them up or<br/>23 fire them if they weren't working, couldn't</p> |

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| <p>1 you?</p> <p>2 MR. ROSENTHAL: Objection to</p> <p>3 the form of the question. You're arguing</p> <p>4 with the witness. He answered your first</p> <p>5 question.</p> <p>6 Q. Could you discipline them if</p> <p>7 they were not working?</p> <p>8 Let me make this -- restart</p> <p>9 this.</p> <p>10 If an employee is not working,</p> <p>11 could you take disciplinary action against</p> <p>12 them?</p> <p>13 A. At what time?</p> <p>14 Q. At any time.</p> <p>15 A. Repeat the question.</p> <p>16 Q. If an employee is not working,</p> <p>17 can you take disciplinary action against</p> <p>18 them?</p> <p>19 MR. ROSENTHAL: Object to the</p> <p>20 form of the question. You can answer if you</p> <p>21 can.</p> <p>22 MS. MCGOWAN: What's wrong</p> <p>23 with the form that question?</p>   | <p>1 their job function on the floor, on their</p> <p>2 job, if they're not performing their job, if</p> <p>3 they leave the line without telling their</p> <p>4 supervisor, and they come up abandoned their</p> <p>5 job, yes, you can take disciplinary action.</p> <p>6 Q. All right. If an employee is</p> <p>7 doing things on their break time, when</p> <p>8 they're away from the line, they're in</p> <p>9 violation of company policy. Can you</p> <p>10 discipline that employee?</p> <p>11 MR. ROSENTHAL: Objection to</p> <p>12 the form of the question.</p> <p>13 Q. You can answer.</p> <p>14 A. The thirty-minute break time</p> <p>15 is their time.</p> <p>16 Q. During the thirty-minute break</p> <p>17 time, do employees have to abide by company</p> <p>18 policies?</p> <p>19 MR. ROSENTHAL: Objection to</p> <p>20 the form of the question.</p> <p>21 Q. Conduct policies?</p> <p>22 MR. ROSENTHAL: Objection to</p> <p>23 the form of the question. You can answer if</p> |
| 51  | 53   |
| <p>1 MR. ROSENTHAL: Any time means</p> <p>2 twenty-four hours a day. You're not</p> <p>3 limiting it to reasons why this witness is</p> <p>4 here, and you're not being specific. He's</p> <p>5 already said to you what time of day is it?</p> <p>6 MS. MCGOWAN: No. And I</p> <p>7 repeated the question. I said if an</p> <p>8 employee is not working, can you discipline</p> <p>9 the employee?</p> <p>10 MR. ROSENTHAL: And I</p> <p>11 objected.</p> <p>12 MS. MCGOWAN: There's nothing</p> <p>13 about any time in that question.</p> <p>14 Q. If you have an employee that's</p> <p>15 not working, can you take disciplinary</p> <p>16 action against that employee?</p> <p>17 MR. ROSENTHAL: Are you</p> <p>18 limiting it to after he's clocked in or</p> <p>19 before he's clocked in?</p> <p>20 Q. After an employee clocks in,</p> <p>21 if he's not working, can you take</p> <p>22 disciplinary action against that employee?</p> <p>23 A. If they're not performing</p> | <p>1 you can.</p> <p>2 Q. You can answer.</p> <p>3 A. Which policies?</p> <p>4 Q. Any conduct policies.</p> <p>5 A. What specific policies?</p> <p>6 Q. Can an employee drink during</p> <p>7 their break time?</p> <p>8 A. Drink what?</p> <p>9 Q. Alcohol.</p> <p>10 A. No.</p> <p>11 Q. If an employee was drinking</p> <p>12 alcohol during their break time, could you</p> <p>13 discipline them?</p> <p>14 A. Alcoholic beverages are not</p> <p>15 allowed on the company property.</p> <p>16 Q. My question is, if an employee</p> <p>17 is drinking alcohol during their break time,</p> <p>18 could you take disciplinary action against</p> <p>19 them?</p> <p>20 A. I would take them to HR, yes.</p> <p>21 Q. An HR person --</p> <p>22 A. Yes.</p> <p>23 Q. -- does the discipline?</p>  |

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| <p>54</p> <p>1 A. Yes.</p> <p>2 Q. If an employee wears their PPE</p> <p>3 out into the parking lot, can you discipline</p> <p>4 them?</p> <p>5 MR. ROSENTHAL: Objection to</p> <p>6 the form of the question.</p> <p>7 Q. If an employee wears any of</p> <p>8 their PPE out into the parking lot during</p> <p>9 their break, can you discipline them?</p> <p>10 MR. ROSENTHAL: Objection to</p> <p>11 the form of the question. You can answer if</p> <p>12 you can.</p> <p>13 Q. He's not answering, you are.</p> <p>14 The question is to you. Can you --</p> <p>15 A. I know.</p> <p>16 Q. Can you answer that question?</p> <p>17 A. The employees are not allowed</p> <p>18 to wear their equipment outside the</p> <p>19 building.</p> <p>20 Q. If an employee does wear their</p> <p>21 equipment outside of the building, can you</p> <p>22 write them up?</p> <p>23 A. We would take the progressive</p>  | <p>56</p> <p>1 other than you wouldn't have control of</p> <p>2 employees, that Equity could not pay</p> <p>3 employees from punch-in to punch-out time?</p> <p>4 A. I don't understand the</p> <p>5 question.</p> <p>6 Q. I asked you previously why</p> <p>7 Equity -- was there any reason why Equity</p> <p>8 couldn't pay employees from punch-in to</p> <p>9 punch-out time, and you stated, well, you</p> <p>10 couldn't keep control of the employees.</p> <p>11 They may go out in the parking lot and not</p> <p>12 work.</p> <p>13 Is there any other reason why</p> <p>14 Equity could not pay employees from their</p> <p>15 punch-in or punch-out time or clock-in to</p> <p>16 clock-out as you call it?</p> <p>17 A. Employees are set up on</p> <p>18 specific departments, and they're paid</p> <p>19 according to the pay scale and how that's</p> <p>20 set up with accounting, so that's how</p> <p>21 they're paid.</p> <p>22 Q. All right. But could</p> <p>23 accounting decide that they're going to set</p> |
| <p>55</p> <p>1 discipline with them.</p> <p>2 Q. So you can discipline them;</p> <p>3 correct?</p> <p>4 A. If they wear their hair net --</p> <p>5 Personal protective equipment, to me, would</p> <p>6 be an arm guard or a chained glove.</p> <p>7 Q. If an employee wears their</p> <p>8 hair net out into the parking lot, can you</p> <p>9 discipline them?</p> <p>10 A. We ask them to take it off.</p> <p>11 And we would take the progressive discipline</p> <p>12 and continue.</p> <p>13 Q. So you have control of the</p> <p>14 employees through the progressive discipline</p> <p>15 policy, if they're violating any of your</p> <p>16 work rules or policies; is that correct?</p> <p>17 A. Repeat the question.</p> <p>18 Q. Equity Foods has control of</p> <p>19 employees through the progressive</p> <p>20 disciplining policy, if an employee violates</p> <p>21 policies or work rules?</p> <p>22 A. Yes.</p> <p>23 Q. All right. Any other reason,</p> | <p>57</p> <p>1 up debone employees to pay them from</p> <p>2 clock-in to clock-out time?</p> <p>3 MR. ROSENTHAL: Objection to</p> <p>4 the form of the question. You can answer.</p> <p>5 A. No.</p> <p>6 Q. And why not?</p> <p>7 A. Because we set those rules.</p> <p>8 Q. Who sets those rules?</p> <p>9 A. We, as a company, set those</p> <p>10 rules.</p> <p>11 Q. Okay. Could the company</p> <p>12 decide to change those rules and pay from</p> <p>13 clock-in to clock-out time?</p> <p>14 MR. ROSENTHAL: Objection to</p> <p>15 the form of the question. You can answer.</p> <p>16 A. I don't know.</p> <p>17 Q. Who would have that authority</p> <p>18 to change those rules?</p> <p>19 A. General manager.</p> <p>20 Q. And who is that?</p> <p>21 A. Tim Esslinger.</p> <p>22 Q. Who would have a list of all</p> <p>23 the employees that are paid at your plant</p>  |

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| <p>58</p> <p>1 from clock-in to clock-out?</p> <p>2 A. I don't know. Not specific</p> <p>3 employees names, I don't know.</p> <p>4 Q. Or departments?</p> <p>5 A. Accounting would have that.</p> <p>6 Q. In the morning when an</p> <p>7 employee arrives to start a shift as a</p> <p>8 processing employee, do they report to the</p> <p>9 same position every day?</p> <p>10 A. Generally, yes.</p> <p>11 Q. What do you mean by generally</p> <p>12 yes?</p> <p>13 A. They would report to the same</p> <p>14 department, but within that department if</p> <p>15 employees were absent, after we got</p> <p>16 everything going, employees may be asked to</p> <p>17 move to a different position on the line.</p> <p>18 Q. Are employees rotated on the</p> <p>19 line on a daily basis?</p> <p>20 A. Which department?</p> <p>21 Q. In any of the processing</p> <p>22 departments.</p> <p>23 A. Yes.</p>                              | <p>60</p> <p>1 Q. Who would know that?</p> <p>2 A. Supervisors.</p> <p>3 Q. If some of the employees</p> <p>4 testified that they rotated when they came</p> <p>5 back from shifts -- their two unpaid breaks,</p> <p>6 would you dispute that testimony?</p> <p>7 MR. ROSENTHAL: Objection to</p> <p>8 the form of the question.</p> <p>9 Q. You can answer.</p> <p>10 A. First off, an employee</p> <p>11 wouldn't work two shifts.</p> <p>12 Q. I'm talking about -- Let me</p> <p>13 back up. Employees are entitled to two</p> <p>14 thirty-minute unpaid breaks per shift; is</p> <p>15 that correct?</p> <p>16 A. Correct.</p> <p>17 Q. All right. And if an</p> <p>18 employee -- If some of the employees have</p> <p>19 previously testified in this case that when</p> <p>20 they returned from their two thirty-minute</p> <p>21 unpaid breaks, they were rotated to</p> <p>22 different locations on the line, would you</p> <p>23 have any reason to dispute that testimony?</p> |
| <p>59</p> <p>1 Q. Who makes the decision of</p> <p>2 where they'll be working on the line that</p> <p>3 day?</p> <p>4 A. Supervisors.</p> <p>5 Q. Why are employees rotated?</p> <p>6 A. We rotate them to try to take</p> <p>7 care of them where they don't do the same --</p> <p>8 use the same motion all the time.</p> <p>9 Q. Is it to cut down on injuries?</p> <p>10 A. It's to cut down on ergonomic</p> <p>11 issues with the employees, try to take care</p> <p>12 of them.</p> <p>13 Q. Like carpal tunnel syndrome?</p> <p>14 A. Yes.</p> <p>15 Q. And worker compensation claims</p> <p>16 for the same?</p> <p>17 A. Cut down on carpal tunnel.</p> <p>18 Q. Do the employees rotate</p> <p>19 throughout the day or is it just at the</p> <p>20 beginning of the shift?</p> <p>21 A. I'm not that familiar with the</p> <p>22 rotation schedules because I don't do those</p> <p>23 every day. I'm not that close to them.</p> | <p>61</p> <p>1 MR. ROSENTHAL: Objection to</p> <p>2 the form of the question and to the premise.</p> <p>3 You can answer.</p> <p>4 A. I don't know.</p> <p>5 Q. Do you know of any policy or</p> <p>6 written document that would dispute that</p> <p>7 testimony?</p> <p>8 MR. ROSENTHAL: Objection to</p> <p>9 the form of the question. You can answer as</p> <p>10 to any documents you're aware of.</p> <p>11 A. I don't know if there's a</p> <p>12 document.</p> <p>13 Q. Are there any written</p> <p>14 documents as to when employees are supposed</p> <p>15 to be rotated?</p> <p>16 A. I don't know.</p> <p>17 Q. Who would know?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you instruct the</p> <p>20 supervisors to rotate the employees?</p> <p>21 A. I do not instruct them to</p> <p>22 rotate employees.</p> <p>23 Q. Who does?</p>   |

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1 A. Superintendent would handle  
2 all the job rotations.  
3 Q. Who lets the superintendent  
4 know that they should instruct the  
5 supervisors to rotate employees?  
6 A. I'm not involved in rotations.  
7 Q. Who would be involved in that?  
8 A. The superintendent and  
9 supervisors would be involved in job  
10 rotations.  
11 Q. But you're over the  
12 superintendents?  
13 A. The processing managers report  
14 to me.  
15 Q. So would the processing  
16 managers be the person telling the  
17 superintendents to make sure the employees  
18 are being rotated?  
19 A. I don't get involved in  
20 rotations.  
21 Q. I'm trying to find out who  
22 does, other than the superintendent and  
23 supervisors.

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1 A. As far as I know the  
2 supervisors handle the rotations.  
3 Q. Is there anybody above them  
4 making sure that the superintendent and  
5 supervisors are handling the rotations?  
6 A. There is an ergonomics team  
7 that evaluates rotation sheets.  
8 Q. Rotation sheets? What are  
9 those?  
10 A. They audit them for proper  
11 rotation.  
12 Q. What is a rotation sheet?  
13 A. I don't know.  
14 Q. Have you ever seen one?  
15 A. No.  
16 Q. Who maintains rotation sheets?  
17 A. I don't know.  
18 Q. Are these something that are  
19 kept at the plant?  
20 A. I don't know where they're  
21 kept.  
22 Q. How do you know about rotation  
23 sheets?

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1 A. Because I've -- They're  
2 covered with the ergonomics safety team.  
3 They cover them in a monthly meeting. They  
4 review them and they were done.  
5 Q. Who's on the ergonomics team?  
6 A. Bobby Barnett is the team  
7 leader, and I'm not sure who's on the team.  
8 Q. What's Bobby Barnett's job?  
9 A. First processing manager.  
10 Q. Do you attend these monthly  
11 safety meetings?  
12 A. I do.  
13 Q. All right. Who else attends  
14 them?  
15 A. Other managers.  
16 Q. Tell me who.  
17 A. Tim Esslinger, Jim Bice.  
18 Q. What's Jim Bice's title?  
19 A. Complex HR manager. Butch  
20 White.  
21 Q. Who's Butch White?  
22 A. Complex QA manager.  
23 Q. Who else?

65

1 A. Bobby Barnett.  
2 Q. He's the first and second  
3 shift processing manager?  
4 A. He's first processing manager.  
5 Q. Okay.  
6 A. Ricky Lewis.  
7 Q. Who's Ricky Lewis?  
8 A. Processing manager for debone  
9 and DSI.  
10 Q. All right. Who else?  
11 A. Ken Edwards.  
12 Q. Who's Ken Edwards?  
13 A. Live operations manager.  
14 Q. Who else?  
15 A. Mike Cortner.  
16 Q. Mike who?  
17 A. Cortner.  
18 Q. What's his title?  
19 A. Further processing manager.  
20 Q. Who else?  
21 A. Robin Jones.  
22 Q. Who's Robin Jones?  
23 A. The administrative assistant.



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|---|--|
| <p>66</p> <p>1 Q. To whom?</p> <p>2 A. Tim.</p> <p>3 Q. Who else?</p> <p>4 A. Carldon Grant, C-A-R-L-D-O-N,</p> <p>5 Grant.</p> <p>6 Q. What is Carldon Grant's title?</p> <p>7 A. Live haul manager. Billy</p> <p>8 Kelly.</p> <p>9 Q. Who's Billy Kelly?</p> <p>10 A. Maintenance manager. Terrence</p> <p>11 Skinner.</p> <p>12 Q. Who's Terrence Skinner?</p> <p>13 A. He's the maintenance manager</p> <p>14 as well.</p> <p>15 Q. Both are maintenance managers?</p> <p>16 A. Uh-huh.</p> <p>17 Q. Do they have different areas?</p> <p>18 A. Billy's in charge of further</p> <p>19 plant, Terrence is in charge of fresh plant.</p> <p>20 Q. Anyone else?</p> <p>21 A. Reb Blutsworth.</p> <p>22 Q. Who?</p> <p>23 A. Reb Blutsworth.</p>                             | <p>68</p> <p>1 Q. Other than the ergonomic</p> <p>2 reports or the rotation sheets, what else is</p> <p>3 discussed in these monthly safety meetings?</p> <p>4 A. On-the-job, off-the-job</p> <p>5 safety, safety audits, the first response,</p> <p>6 and safety statistics.</p> <p>7 Q. When you say on-the-job,</p> <p>8 off-the-job safety, what do you mean by</p> <p>9 that?</p> <p>10 A. There are committees that do</p> <p>11 different things to promote on-the-job</p> <p>12 safety and off-the-job safety when people go</p> <p>13 home.</p> <p>14 Q. When you're talking about</p> <p>15 off-the-job safety, you mean from the time</p> <p>16 they clock out until they leave the</p> <p>17 facility?</p> <p>18 A. When they go home.</p> <p>19 Q. Like leave -- Like at their</p> <p>20 home?</p> <p>21 A. At their home.</p> <p>22 Q. What area?</p> <p>23 A. We talk about topics depending</p>  |
| <p>67</p> <p>1 Q. R-E-B?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Blutsworth?</p> <p>4 A. B-L-U-D-S-W-O-R-T-H.</p> <p>5 Q. Who is that?</p> <p>6 A. Complex maintenance manager.</p> <p>7 Q. Anyone else?</p> <p>8 A. Harry Wilson, safety manager.</p> <p>9 Q. Anyone else?</p> <p>10 A. Jeanette Anglin.</p> <p>11 Q. Jeanette who?</p> <p>12 A. Anglin, A-N-G-L-I-N.</p> <p>13 Q. What's Jeanette's title?</p> <p>14 A. She's in charge of -- She's</p> <p>15 the nurse. She's head of all the -- I'm not</p> <p>16 sure of her exact title.</p> <p>17 Q. Over all the plants?</p> <p>18 A. Yes.</p> <p>19 Q. Anyone else attend this</p> <p>20 monthly meeting?</p> <p>21 A. There are some others from</p> <p>22 other departments, but I don't recall their</p> <p>23 names.</p> | <p>69</p> <p>1 on the season, could be heat-related safety</p> <p>2 or swimming safety or boating safety, things</p> <p>3 like that.</p> <p>4 Q. What are safety audits?</p> <p>5 A. Safety audits are performed by</p> <p>6 supervisors and managers in a plant.</p> <p>7 Q. What are they auditing?</p> <p>8 A. Auditing the unsafe acts and</p> <p>9 conditions of the plant, whether it's a</p> <p>10 person doing something that's unsafe or</p> <p>11 there's an unsafe condition in the plant.</p> <p>12 Q. What about first response,</p> <p>13 what is that?</p> <p>14 A. They are made up of the HAZMAT</p> <p>15 team. So they go over what they've done for</p> <p>16 the month, the previous month, and what</p> <p>17 they've got in store for the next month.</p> <p>18 Q. Do you have monthly safety</p> <p>19 meetings with the employees?</p> <p>20 A. I do not.</p> <p>21 Q. Does someone at the plant?</p> <p>22 A. Supervisors.</p> <p>23 Q. When are these held?</p> |



| 70  | 72  |
|---|---|
| <p>1 A. During operations.</p> <p>2 Q. What are safety statistics?</p> <p>3 A. Cover hours worked, cover any</p> <p>4 accidents that may have happened for the</p> <p>5 previous month, and look at recordables and</p> <p>6 frequency rate.</p> <p>7 Q. Do you look at lost time?</p> <p>8 A. If there has been one, yes.</p> <p>9 Q. These rotation sheets, do they</p> <p>10 give those out or a report from those</p> <p>11 rotation sheets in these meetings?</p> <p>12 A. No. They don't give those</p> <p>13 out.</p> <p>14 Q. Do they give you a summary of</p> <p>15 them?</p> <p>16 A. They give a summary of what's</p> <p>17 been audited.</p> <p>18 Q. Do you know how often the</p> <p>19 rotation sheets are completed?</p> <p>20 A. I do not.</p> <p>21 Q. Is it something that's done</p> <p>22 daily or weekly by a supervisor?</p> <p>23 A. I don't look at them, so I</p>                 | <p>1 they post on the bulletin board. That's</p> <p>2 just to try to help employees, whether it be</p> <p>3 monitoring high blood pressure, things like</p> <p>4 that. I don't remember.</p> <p>5 Q. Can you recall anything else</p> <p>6 we haven't already discussed?</p> <p>7 A. There's some other issues</p> <p>8 discussed on the refrigeration side, but I</p> <p>9 don't know exactly what they are.</p> <p>10 Q. Other than the rotation</p> <p>11 sheets, are you aware of any other</p> <p>12 documentation that would reflect the actual</p> <p>13 rotation of the employees on the production</p> <p>14 line?</p> <p>15 A. I'm not.</p> <p>16 Q. Would an employee's time</p> <p>17 records reflect where they were actually</p> <p>18 working?</p> <p>19 A. It would reflect the -- It</p> <p>20 would reflect the department that they were</p> <p>21 charged to; it would not reflect where they</p> <p>22 were actually working.</p> <p>23 Q. Okay. Are the employees</p> |
| 71  | 73  |
| <p>1 don't know.</p> <p>2 Q. Anything else discussed in the</p> <p>3 monthly meetings, safety meetings?</p> <p>4 A. Transportation.</p> <p>5 Q. With regards to?</p> <p>6 A. Just hours driven -- I'm sorry</p> <p>7 miles driven and reviewing accidents.</p> <p>8 Q. Is that delivering the</p> <p>9 product?</p> <p>10 A. No. That would be delivering</p> <p>11 feed or delivering live birds to the plant.</p> <p>12 Q. Where are your live birds</p> <p>13 maintained? Is that an operation by Equity,</p> <p>14 or do you purchase them from farmers, or how</p> <p>15 do you get your live birds?</p> <p>16 A. They're -- Contract growers</p> <p>17 raise the birds.</p> <p>18 Q. Anything else discussed in</p> <p>19 these safety meetings?</p> <p>20 A. There's a wellness committee.</p> <p>21 Q. What does the wellness</p> <p>22 committee do?</p> <p>23 A. They have a monthly topic that</p> | <p>1 rotated within the department that they're</p> <p>2 assigned to, or are they moved to other</p> <p>3 departments, if you know?</p> <p>4 A. They would be rotated within</p> <p>5 the deboning department.</p> <p>6 Q. Any other department rotate?</p> <p>7 A. Evisceration, I believe.</p> <p>8 Evisceration.</p> <p>9 Q. Are they the only two</p> <p>10 departments, to your knowledge, that rotate</p> <p>11 employees?</p> <p>12 A. As far as I'm aware, they are.</p> <p>13 Q. What are the policies of</p> <p>14 Equity -- of Equity Group regarding personal</p> <p>15 identification cards or clock-in cards for</p> <p>16 your employees? What are their requirements</p> <p>17 with regards to when they report to work?</p> <p>18 MR. ROSENTHAL: Objection to</p> <p>19 the form. Several questions. You can</p> <p>20 answer if you can.</p> <p>21 A. You are going to have to get</p> <p>22 more specific.</p> <p>23 Q. Do all employees have a</p>                      |

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1 personal identification card or an ID card  
2 or badge? How do they clock in?  
3 A. They have an employee badge.  
4 Q. What do they do with this  
5 employee badge?  
6 A. They're supposed to use it to  
7 clock in and clock out.  
8 Q. Is it used for anything else?  
9 A. To purchase their supplies.  
10 Q. Does it have a picture of them  
11 on it? What does it look like?  
12 A. Yes.  
13 Q. Yes, it has a picture?  
14 A. It has a picture.  
15 Q. Do they have to use it to  
16 enter the plant?  
17 A. No.  
18 Q. Okay. So are there any rules  
19 with regards to when they can clock in?  
20 A. No.  
21 Q. Do you have like a ten-minute  
22 rule, like they shouldn't clock in ten  
23 minutes before their shift or anything like

75

1 that?  
2 A. No.  
3 Q. Is there anything that  
4 prohibits Equity Food from establishing a  
5 policy of when an employee can clock in?  
6 MR. ROSENTHAL: Objection to  
7 the form of the question. You can answer.  
8 A. Repeat the question.  
9 Q. Is there anything that  
10 prohibits Equity Food from establishing a  
11 policy of when an employee -- how soon an  
12 employee can clock in before their shift  
13 begins?  
14 MR. ROSENTHAL: Same  
15 objection. You can answer.  
16 A. I don't recall anything that  
17 prohibits. I -- I'm not -- I don't know.  
18 Q. Have you ever been in any  
19 meetings where there have been any  
20 discussions about establishing a policy with  
21 regards to the time length before an  
22 employee can check in?  
23 A. No.

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1 Q. If an employee is assigned to  
2 work on the evisc line, what time would it  
3 start on first shift, that department? In  
4 the evisc department -- What time does the  
5 first shift of the evisc department start?  
6 A. The live hang department  
7 starts at ten till, and as the birds travel  
8 through the process, it comes to eviscerate.  
9 Q. What's the first station after  
10 the birds -- Is the chiller in that evisc  
11 department or is it outside?  
12 A. It's the last stage of that  
13 department.  
14 Q. What is the first position  
15 outside of the chiller on the line?  
16 A. Which direction?  
17 Q. Is there more than one  
18 direction?  
19 MR. ROSENTHAL: Both sides of  
20 the chiller.  
21 Q. After you leave the chiller,  
22 as the bird goes through the process, what's  
23 the first position after? Is it the chiller

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1 hanger?  
2 A. Rehang.  
3 Q. Rehang. What department is  
4 that in?  
5 A. It's in deboning. But it is  
6 rehang within the debone department.  
7 Q. What time does the person  
8 working on the rehang in the debone have to  
9 report to work on first shift?  
10 A. 7:30.  
11 Q. Is that when that department  
12 starts?  
13 A. When the workload gets there.  
14 Depending on how the production is running.  
15 If we have a breakdown, or something, the  
16 workload may not get there.  
17 Q. Is that what time it's  
18 scheduled to start?  
19 A. Scheduled time to start is  
20 7:30.  
21 Q. Are people working as  
22 rehangers in the debone department paid on  
23 scheduled time or line time?

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| <p style="text-align: right;">78</p> <p>1 A. It should be a line time.<br/>2 Q. How does that operate?<br/>3 A. They are -- The master card of<br/>4 the line time is swiped at the end of the<br/>5 shift when the work is complete.<br/>6 Q. What about at the beginning of<br/>7 the shift, how do they start it?<br/>8 A. The employees, they swipe in<br/>9 whenever they get ready, as long as it's<br/>10 before 7:30.<br/>11 Q. What if an employee swipes in<br/>12 at 7:31, what happens?<br/>13 A. They would be late.<br/>14 Q. Are they deducted that one<br/>15 minute of pay?<br/>16 A. I don't do the time sheets,<br/>17 so --<br/>18 Q. Do you know, if an employee<br/>19 swipes in after 7:30, are they paid from<br/>20 7:30 or are they paid from when they swipe<br/>21 in?<br/>22 A. If you were late, you'd be<br/>23 paid from when you clock in.</p>  | <p style="text-align: right;">80</p> <p>1 A. Not all employees.<br/>2 Q. Which employees are paid from<br/>3 when they clock in until the master card is<br/>4 swiped on the production line?<br/>5 A. Employees that are on the<br/>6 master card time are paid from the scheduled<br/>7 start time of that department.<br/>8 Q. Does each department have a<br/>9 scheduled start time?<br/>10 A. The debone department starts<br/>11 up at 7:30.<br/>12 Q. Are all -- The whole<br/>13 department starts -- I think you said there<br/>14 are different positions within the debone<br/>15 department. Does the whole -- Do all the<br/>16 positions start at 7:30? Is that the<br/>17 scheduled start time?<br/>18 A. Yes.<br/>19 Q. What positions are within<br/>20 debone department? I know we've talked<br/>21 about the rehangers, the chiller rehangers.<br/>22 What other positions?<br/>23 A. For a deboning line?</p>  |
| <p style="text-align: right;">79</p> <p>1 Q. If an employee swipes in<br/>2 before -- clocks in before 7:30, are they<br/>3 paid from their clock in or are they paid<br/>4 from the scheduled time of 7:30?<br/>5 A. It depends on how it's set up.<br/>6 It depends on what department you're working<br/>7 in.<br/>8 Q. What department --<br/>9 A. If you're scheduled to -- If<br/>10 you're on a schedule, you could be paid from<br/>11 that time until you clock out; but on line<br/>12 time, it would be start and stop.<br/>13 Q. For the whole department?<br/>14 When you say there would be start and stop,<br/>15 what do you mean?<br/>16 A. There would be a master card<br/>17 swiped at the end of that shift.<br/>18 Q. I'm focusing on the beginning.<br/>19 A. The employees clock in.<br/>20 Q. So employees are paid from<br/>21 their clock-in time until the master card is<br/>22 swiped at the end, if you're working on the<br/>23 production line?</p> | <p style="text-align: right;">81</p> <p>1 Q. For the debone department.<br/>2 I'm talking about the whole department, what<br/>3 positions are there?<br/>4 A. There's a cone loader, there's<br/>5 a shoulder cutter, breast inspector, tender<br/>6 scorer.<br/>7 Q. Scorer, like you're scoring<br/>8 something?<br/>9 A. Uh-huh. Tender puller.<br/>10 Q. We've got a chiller rehanger,<br/>11 a cone loader, a shoulder cutter, a breast<br/>12 inspector, a tender scorer, a tender puller?<br/>13 A. There would be a line lead.<br/>14 Q. What's a line lead?<br/>15 A. They would --<br/>16 Q. Are they like a floor person?<br/>17 A. Well, you'd have floor persons<br/>18 in the department, but they help take care<br/>19 of the line, take care of the employees on<br/>20 the line, relieve them to go to the<br/>21 bathrooms, get their knives and scissors out<br/>22 for them.<br/>23 Then there's a skinner</p> |

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| <p style="text-align: right;">82</p> <p>1 operator.</p> <p>2 Q. Anybody else in debone?</p> <p>3 A. There's some pallet jack</p> <p>4 operators. That would be it for the</p> <p>5 deboning line.</p> <p>6 Q. And everybody in that whole</p> <p>7 department, their scheduled start time is</p> <p>8 7:30?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And they're paid until</p> <p>11 the master card is swiped at the end of the</p> <p>12 shift? They go by the master card swipe;</p> <p>13 correct?</p> <p>14 A. Correct. Yes.</p> <p>15 Q. Okay. And then at the</p> <p>16 beginning of the shift, they're paid from</p> <p>17 the scheduled time to start?</p> <p>18 A. From 7:30.</p> <p>19 Q. At 7:30.</p> <p>20 MS. MCGOWAN: Let's take a</p> <p>21 quick break.</p> <p>22 (Recess taken.)</p> <p>23 MS. MCGOWAN: We're back on</p>   | <p style="text-align: right;">84</p> <p>1 A. There's pack out, wings,</p> <p>2 tenders, those kind of things. But</p> <p>3 employees need to wear -- Did you say --</p> <p>4 repeat the question again.</p> <p>5 Q. What are employees required to</p> <p>6 wear in the debone department?</p> <p>7 A. To go in, you need to put your</p> <p>8 hair net on; beard net if you have facial</p> <p>9 hair; ear plugs; a smock.</p> <p>10 Q. Anything else?</p> <p>11 A. That's to go in the -- To get</p> <p>12 inside the debone area: Put your hair net</p> <p>13 on, beard net on, ear plugs on, and go in</p> <p>14 and put your smock on.</p> <p>15 Q. Is that a policy of Equity,</p> <p>16 that you have to do that to go into the</p> <p>17 area?</p> <p>18 A. Policy to?</p> <p>19 Q. You said, to go in the debone</p> <p>20 area, you have to put your hair net, your</p> <p>21 beard net, and ear plugs on, and then put</p> <p>22 your smock on when you get in.</p> <p>23 A. Yes.</p> |
| <p style="text-align: right;">83</p> <p>1 the Record.</p> <p>2 Q. (BY MS. MCGOWAN:) Before we</p> <p>3 left, we were talking about rotating</p> <p>4 employees. In your meetings, the safety</p> <p>5 meetings, do they -- you said they talk</p> <p>6 about auditing the rotation sheets. Is</p> <p>7 there anything else discussed with regards</p> <p>8 to how the employees are rotated, other than</p> <p>9 just the audit of the sheets?</p> <p>10 A. Not that I recall.</p> <p>11 Q. If you work in the debone</p> <p>12 department, what are you required -- the</p> <p>13 employees required to actually wear into the</p> <p>14 department?</p> <p>15 MR. ROSENTHAL: Objection to</p> <p>16 the form of the question. You can answer.</p> <p>17 A. Which department?</p> <p>18 Q. Debone. Is that one</p> <p>19 department?</p> <p>20 A. There's goings on in that room</p> <p>21 we call the deboning, but there's other</p> <p>22 goings on in there.</p> <p>23 Q. What other building?</p> | <p style="text-align: right;">85</p> <p>1 Q. Is that a written policy?</p> <p>2 A. I'm not sure if it's a written</p> <p>3 policy.</p> <p>4 Q. Is it a company policy?</p> <p>5 A. It's a company policy.</p> <p>6 Q. Why does the company have that</p> <p>7 policy?</p> <p>8 A. We had a lot of trouble</p> <p>9 with -- The reason you put your smock on in</p> <p>10 the room is because we had a lot of</p> <p>11 employees going into the bathrooms with</p> <p>12 their smocks on, and that's -- you can't do</p> <p>13 that as far as USDA. All that's USDA</p> <p>14 policies.</p> <p>15 Q. Can they wear their hair nets</p> <p>16 into the rest room?</p> <p>17 A. No. They must take those off.</p> <p>18 You can wear them outside the production</p> <p>19 area into the break room. They must take</p> <p>20 those off before they go in the bathroom,</p> <p>21 hair nets and beard nets.</p> <p>22 Q. Can they wear ear plugs into</p> <p>23 the rest room?</p>                 |

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| <p style="text-align: right;">86</p> <p>1 A. Most of them have them around<br/>2 their neck. They don't have them in their<br/>3 ear, but around their neck.<br/>4 They can wear their boots in<br/>5 there as well.<br/>6 Q. Do they have to have boots on<br/>7 to go on the production floor?<br/>8 A. Yes.<br/>9 Q. What does an employee have to<br/>10 have on to go onto the production floor in<br/>11 addition to -- Well, you said debone. Is<br/>12 debone considered the production floor?<br/>13 A. Yes.<br/>14 Q. So let's go over what an<br/>15 employee must have on to go onto the<br/>16 production floor. You have to have a hair<br/>17 net?<br/>18 A. Yes.<br/>19 Q. Beard net?<br/>20 A. Yes.<br/>21 Q. Ear plugs?<br/>22 A. Yes.<br/>23 Q. Boots?</p> | <p style="text-align: right;">88</p> <p>1 employees put on the smock once they enter<br/>2 the production area? Is there a certain<br/>3 place they have to put the smock on?<br/>4 A. No.<br/>5 Q. Could you walk to the line<br/>6 without it on? Could you go up to the<br/>7 tender line without a smock on?<br/>8 A. They put it on right inside<br/>9 the door, there.<br/>10 Q. So they have to put it on once<br/>11 they get right inside the door --<br/>12 A. Yeah.<br/>13 Q. -- the smock?<br/>14 When I say it, they have to<br/>15 put the smock on right when they come in the<br/>16 door?<br/>17 A. When they get in the<br/>18 production area, they put on their smock.<br/>19 Q. Is it one door right in or is<br/>20 it double doors?<br/>21 A. There's double doors.<br/>22 Q. All right. What do they do --<br/>23 Are there any wash basins? Do they have to</p>  |
| <p style="text-align: right;">87</p> <p>1 A. Yes.<br/>2 Q. Anything else?<br/>3 A. No.<br/>4 Q. And once they get on to the<br/>5 production floor, they put their smock on?<br/>6 A. Yes.<br/>7 Q. All right. How many doors are<br/>8 there on to the production floor? Is there<br/>9 one door or several doors?<br/>10 A. Are you talking about just the<br/>11 deboning floor?<br/>12 Q. For the employees that --<br/>13 let's start debone because that's a separate<br/>14 department; right?<br/>15 A. Employees can go in different<br/>16 entrances.<br/>17 Q. How many are there?<br/>18 A. There's three in the main<br/>19 hallway.<br/>20 Q. The main hallway of debone<br/>21 area?<br/>22 A. Uh-huh.<br/>23 Q. All right. Where do the</p>                   | <p style="text-align: right;">89</p> <p>1 wash when they come on the floor, or what do<br/>2 they have to do before they put their smock<br/>3 on?<br/>4 MR. ROSENTHAL: Object to the<br/>5 form of the question. You can answer.<br/>6 Q. If anything?<br/>7 A. There's hand wash stations<br/>8 available.<br/>9 Q. All right. If you are an<br/>10 employee that worked on the tender puller<br/>11 line, what would you do at the beginning of<br/>12 the shift, once you start going into the<br/>13 production area? Tell me what an employee<br/>14 would do.<br/>15 MR. ROSENTHAL: Objection to<br/>16 the form of the question, but you can<br/>17 answer.<br/>18 Q. With regards to this equipment<br/>19 or these required items.<br/>20 A. After I got my supplies as I<br/>21 was going to the production floor, I'd put<br/>22 on my hair net, beard net, ear plugs, have<br/>23 my boots on, go through the foot sanitizers,</p> |



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| <p>1 continue on in, put my smock on, and wash my<br/>2 hands, and head to the line.<br/>3 Q. Where is the foot sanitizer?<br/>4 A. In the floor, it sprays across<br/>5 the floor entrance going into the production<br/>6 area.<br/>7 Q. Is that in -- When you're<br/>8 talking about the double doors, where would<br/>9 it be with regard to the double doors?<br/>10 A. It would spray across the<br/>11 threshold of the doors.<br/>12 Q. The first set or the second<br/>13 set? Which doors?<br/>14 A. That would be my question to<br/>15 you, which doors are you talking about?<br/>16 Q. Is it different? Do all the<br/>17 doors have a foot sprayer?<br/>18 A. Where employees go through<br/>19 production line, yes.<br/>20 Q. All right. How many doors are<br/>21 there with the foot sprayers where employees<br/>22 go to the production line?<br/>23 A. For --</p> | <p>1 there are four area doors that have the<br/>2 sanitizers that production employees can go<br/>3 through?<br/>4 A. Yes.<br/>5 Q. Okay. Do all employees have<br/>6 to wear the boots and go through the<br/>7 sanitizers, production employees?<br/>8 A. Yes.<br/>9 Q. Can employees wear their boots<br/>10 from home?<br/>11 A. Yes.<br/>12 Q. Do you ever observe employees<br/>13 in the morning -- or maybe not the morning,<br/>14 but the beginning of their shift reporting<br/>15 to work and putting on their required items?<br/>16 A. I don't understand the<br/>17 question.<br/>18 Q. Do you ever watch them?<br/>19 A. Do what?<br/>20 Q. Do you watch the employees<br/>21 when they come into work at the beginning of<br/>22 their shift when they're putting on these<br/>23 required items?</p>  |
| 91   | 93   |
| <p>1 Q. In the whole plant or just<br/>2 debone? When you say four, what area?<br/>3 A. I say for --<br/>4 Q. For.<br/>5 A. For which area?<br/>6 Q. For deboning.<br/>7 A. For just deboning?<br/>8 Q. Yes.<br/>9 A. There would be three.<br/>10 Q. Three. But you said --<br/>11 Earlier did you say there was four areas<br/>12 where you could come into debone, or did you<br/>13 tell me there was three?<br/>14 A. There was four areas -- Four<br/>15 sanitizers, and the other one would be over<br/>16 on evisceration side by live hang and the<br/>17 rehang area, that way.<br/>18 Q. That's for the whole deboning<br/>19 area or for the whole plant?<br/>20 A. That would be for the plant.<br/>21 Generally, those deboning employees would go<br/>22 through those three doors.<br/>23 Q. Okay. So for the whole plant,</p>   | <p>1 A. No, I don't. I don't,<br/>2 generally. I don't sit there and watch them<br/>3 put on stuff, no, I don't.<br/>4 Q. Okay. Once an employee --<br/>5 Where -- Do each of the four entrances have<br/>6 the double-door thing that we talked about<br/>7 that one of the debone areas have, or do any<br/>8 of them go straight on to the production<br/>9 floor?<br/>10 A. Are you talking about the foot<br/>11 sanitizer?<br/>12 Q. Is the foot sanitizer on the<br/>13 outside of the production door, or is it on<br/>14 the inside?<br/>15 And maybe I'm not making it<br/>16 clear. You've talked about there being<br/>17 double doors or double areas.<br/>18 A. Right.<br/>19 Q. Explain that. Is it like a<br/>20 door where you go through and there's a<br/>21 little area where you go through the foot<br/>22 sanitizers, then you go through another door<br/>23 to get to the production floor? Is that</p> |

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1 what you're saying?  
2 A. You would go through the  
3 double doors, and then there's -- there's  
4 different setups for the different doors.  
5 Q. Okay. That's what I'm trying  
6 to find out.  
7 A. For the deboning area  
8 production floor, there's a set of double  
9 doors. And when you go through that double  
10 set, you could either go right or left.  
11 There's a little vestibule, and there's  
12 spray, sanitizer spraying across both of  
13 those door openings. The requirement is to  
14 have visible foam there and spraying across  
15 the entranceway.  
16 Q. Is that the actual -- You're  
17 on then in the production area where the  
18 spray is?  
19 A. Yes.  
20 Q. Then after they walk through  
21 the spray, you said they put on their smock,  
22 or do they already have it on when they walk  
23 through the spray?

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1 A. Some of them start putting it  
2 on as they come through the doors.  
3 Q. All right.  
4 A. The first set of doors.  
5 Q. Then they -- After they do  
6 that, what is the next thing an employee  
7 does after they walk through the foot spray?  
8 A. It depends on which employee  
9 and where they're going and what they're  
10 going to wear when they go to the line or go  
11 to a specific job in that deboning  
12 department.  
13 Q. Are they all required to wash  
14 their hands?  
15 A. That is a requirement, to wash  
16 your hands.  
17 Q. Does that have to be done  
18 before you report to the line?  
19 A. Yes.  
20 Q. And they have to use a  
21 sanitizing soap to wash their hands?  
22 A. There is a soap. I don't  
23 know.

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1 Q. The company provides the soap?  
2 A. Yes.  
3 Q. And it has whatever sanitation  
4 in it?  
5 A. Whatever's in it, yes.  
6 Q. It's not like the soap -- It's  
7 not like a floral-smelling soap you get at  
8 Bath and Body Works. It's like some soap  
9 that the company puts in there for the  
10 employees to use; correct?  
11 A. Yes.  
12 Q. Then after they wash their  
13 hands, are they required to wash their  
14 gloves?  
15 A. When I say you've got to wash  
16 your hands, most of them have already got  
17 their gloves on, and they wash their gloves  
18 and head to the line. Me, when I go in,  
19 I've already got my stuff on, hit the sink,  
20 wash my hands, and go on. Because I don't  
21 normally wear the gloves when I go in.  
22 Q. When do you have to wear  
23 gloves?

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1 A. When you're handling product.  
2 Q. Is that a requirement of Koch  
3 Foods?  
4 MR. ROSENTHAL: Of what?  
5 Q. I'm sorry, of Equity. I  
6 called you Koch Foods.  
7 A. If you're going to handle  
8 product, you need to wear the gloves.  
9 Q. That is a requirement of  
10 Equity Foods?  
11 A. Yes.  
12 Q. What about -- Are there any  
13 requirements with regards to wearing plastic  
14 sleeves?  
15 A. To cover your street clothes,  
16 if you've got them exposed working on the  
17 debone line. And that's there for the  
18 employees, to keep themselves dry. They need  
19 to be dry.  
20 Q. If you -- Are your smocks long  
21 sleeve or short sleeve?  
22 A. They're three-quarter.  
23 Q. So if you had on a long sleeve



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| <p>1 shirt under your smock that stuck out past<br/>2 the smock, are there any requirements with<br/>3 regards to sleeves?<br/>4 A. You need to cover your street<br/>5 clothes.<br/>6 Q. So you'd have to wear the<br/>7 plastic sleeves to cover your street<br/>8 clothes --<br/>9 A. Uh-huh.<br/>10 Q. -- if your street clothes<br/>11 stuck out below the smock sleeve; is that<br/>12 correct?<br/>13 A. Yes.<br/>14 Q. Is that a requirement of<br/>15 Equity Foods?<br/>16 A. As far as I know it is, yes.<br/>17 Q. And that is to keep the<br/>18 product uncontaminated by the street<br/>19 clothes?<br/>20 A. Just to keep the street<br/>21 clothes from coming in contact with the<br/>22 product.<br/>23 Q. Which would contaminate the</p>  | <p>1 find your employees aren't washing their<br/>2 hands before they touch the meat, what would<br/>3 happen?<br/>4 MR. ROSENTHAL: Objection to<br/>5 the form of the question.<br/>6 Q. Or touching the product?<br/>7 A. They never said anything about<br/>8 it.<br/>9 Q. I'm not asking if they ever<br/>10 did, I'm asking what would happen if they<br/>11 did find it.<br/>12 MR. ROSENTHAL: Objection to<br/>13 the form of the question.<br/>14 A. I don't know because I've<br/>15 never encountered.<br/>16 Q. Why is USDA there?<br/>17 A. They monitor production.<br/>18 Q. If they don't like something<br/>19 that they see in the production, what, if<br/>20 anything, can they do?<br/>21 MR. ROSENTHAL: Objection to<br/>22 the form of the question.<br/>23 A. It depends on -- They have</p>                                       |
| 99  | 101   |
| <p>1 product, correct, if they came in contact?<br/>2 A. Contamination is a big word.<br/>3 Q. Is that a USDA requirement,<br/>4 that the street clothes can't come in<br/>5 contact with the product?<br/>6 A. That is something that they<br/>7 monitor. I don't know how it's written in<br/>8 their regulations, but they do monitor that.<br/>9 Q. They being USDA?<br/>10 A. Uh-huh.<br/>11 Q. If USDA finds employees at<br/>12 Equity Group having their street clothes<br/>13 come in contact with the product, what<br/>14 happens?<br/>15 MR. ROSENTHAL: Objection to<br/>16 the form of the question. You can answer.<br/>17 A. I've never had anything happen<br/>18 that's been brought to my attention.<br/>19 Q. What could happen?<br/>20 A. I don't know. We'd have to<br/>21 ask them. I've never had that happen.<br/>22 Q. Does USDA, when they are<br/>23 monitoring your production process, if they</p> | <p>1 different actions that they take depending<br/>2 on what's taking place.<br/>3 Q. What actions can they take?<br/>4 A. It depends on what's going on.<br/>5 Q. Right. Tell me what -- Give<br/>6 me examples.<br/>7 A. Ask me a question and I'll<br/>8 give you --<br/>9 Q. I said what actions can USDA<br/>10 take?<br/>11 A. They could issue a<br/>12 noncompliance report.<br/>13 Q. What's a noncompliance report?<br/>14 A. It's where they write the<br/>15 deficiency down where something was done<br/>16 wrong or some regulation wasn't met, and<br/>17 then you'd have to answer that; or they<br/>18 could shut your operation down.<br/>19 Q. Would employees' street<br/>20 clothes touching the product be something<br/>21 that would be subject to a noncompliance<br/>22 report by USDA?<br/>23 MR. ROSENTHAL: Objection to</p> |

| 102   | 104  |
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| <p>1 the form of the question.</p> <p>2 A. I don't know.</p> <p>3 Q. Do you know what would be</p> <p>4 subject to a noncompliance report of the</p> <p>5 USDA?</p> <p>6 MR. ROSENTHAL: Objection.</p> <p>7 You can answer.</p> <p>8 A. Line speed going faster than</p> <p>9 you're supposed to in eviscerate.</p> <p>10 Q. Anything else?</p> <p>11 A. Not adhering to the HACCP</p> <p>12 plans.</p> <p>13 Q. The what plans?</p> <p>14 MR. ROSENTHAL: HACCP.</p> <p>15 Q. What is that?</p> <p>16 A. Hazard Analysis Critical</p> <p>17 Control Point plan.</p> <p>18 Q. What is covered by that plan?</p> <p>19 A. I don't know the detail of it.</p> <p>20 There's a lot of stuff covered as far as the</p> <p>21 HACCP program. I don't know. The</p> <p>22 department handles that.</p> <p>23 Q. Do you know anything that's</p>  | <p>1 A. I've never had it happen.</p> <p>2 Q. My question is: If an</p> <p>3 employee was not wearing a smock on the</p> <p>4 production floor, would that be an area that</p> <p>5 would be subject to a noncompliance report</p> <p>6 by the USDA?</p> <p>7 A. I guess it could. I've never</p> <p>8 had that happen.</p> <p>9 Q. If an employee was not wearing</p> <p>10 a hair net on the production floor, is that</p> <p>11 an area that could be subject to a</p> <p>12 noncompliance report by the USDA?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever had that happen?</p> <p>15 A. No, I haven't.</p> <p>16 Q. What happens if the USDA tags</p> <p>17 a bird?</p> <p>18 A. Depends on what it's tagged</p> <p>19 for.</p> <p>20 Q. What does that mean, if they</p> <p>21 tag a bird?</p> <p>22 MR. ROSENTHAL: Objection to</p> <p>23 the form of the question. You can answer.</p>   |
| 103   | 105  |
| <p>1 covered in the HACCP plan?</p> <p>2 A. There's critical control</p> <p>3 points.</p> <p>4 Q. What are critical control</p> <p>5 points?</p> <p>6 A. Control points that you have</p> <p>7 to monitor throughout the facility and stay</p> <p>8 within those guidelines set in the HACCP</p> <p>9 plan.</p> <p>10 Q. Tell me what points are</p> <p>11 monitored.</p> <p>12 A. One that I know of would be</p> <p>13 fecal, no online fecal.</p> <p>14 Q. What's monitored with regards</p> <p>15 to online fecal?</p> <p>16 A. You have to check product,</p> <p>17 check a specific number of birds, at</p> <p>18 specific intervals, and check for fecal</p> <p>19 material; if it's there, if they find it,</p> <p>20 they would issue a noncompliance report.</p> <p>21 Q. If an employee was not wearing</p> <p>22 a smock in the plant, would that be subject</p> <p>23 to a noncompliance report by USDA?</p> | <p>1 A. If they retain it -- If they</p> <p>2 retain that bird.</p> <p>3 Q. Why would -- What are areas</p> <p>4 that they can tag it for, the bird, USDA?</p> <p>5 That's not a good question.</p> <p>6 Let me start over.</p> <p>7 What are reasons that the USDA</p> <p>8 can tag a bird?</p> <p>9 A. Sometimes they tag specific</p> <p>10 birds because they want to evaluate them</p> <p>11 more or they want to evaluate them with</p> <p>12 their online inspectors.</p> <p>13 Q. Is food safety the top</p> <p>14 priority for Equity Food?</p> <p>15 A. It is a top priority.</p> <p>16 Q. And the policies with regards</p> <p>17 to how employees work on the line and handle</p> <p>18 the product, does that go towards --</p> <p>19 majority of it towards food safety?</p> <p>20 A. Yes.</p> <p>21 Q. The use of a hair net, does</p> <p>22 that go towards -- by employees, does that</p> <p>23 go towards food safety?</p> |

| 106   | 108   |
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| <p>1 A. It's for food safety, yes.</p> <p>2 Q. The use of the smocks by the</p> <p>3 employees, does that go towards food safety?</p> <p>4 A. Yes.</p> <p>5 Q. The use of the rubber gloves</p> <p>6 by the employees, does that go to food</p> <p>7 safety?</p> <p>8 A. It protects their hands and it</p> <p>9 is for food safety, yes.</p> <p>10 Q. And the use of beard nets, is</p> <p>11 that for food safety?</p> <p>12 A. Yes.</p> <p>13 Q. The use of the rubber boots,</p> <p>14 is that for food safety?</p> <p>15 A. That's a requirement from</p> <p>16 Russia. It's a Russian requirement for</p> <p>17 USDA.</p> <p>18 Q. It's a Russian requirement for</p> <p>19 USDA, is that a customer?</p> <p>20 A. It's -- We ship all of our</p> <p>21 dark meat to Russia, and you have to adhere</p> <p>22 to their requirements. They require all</p> <p>23 employees to wear rubber boots, pervious to</p>                                       | <p>1 processing plant, if they ever had to push a</p> <p>2 button?</p> <p>3 MR. ROSENTHAL: Objection to</p> <p>4 the form of the question.</p> <p>5 A. I don't know.</p> <p>6 Q. Is the walking through the</p> <p>7 foot sanitizer or the boot sanitizer the</p> <p>8 first act of sanitizing the equipment that</p> <p>9 the employees do when they walk on the</p> <p>10 production floor?</p> <p>11 MR. ROSENTHAL: Objection to</p> <p>12 the form of the question.</p> <p>13 A. That's the first sanitizing of</p> <p>14 what the employee would be wearing, which is</p> <p>15 their boots.</p> <p>16 Q. Okay. And those boots are</p> <p>17 required by USDA because of the Russian</p> <p>18 requirement; correct?</p> <p>19 A. We have to adhere to that</p> <p>20 policy, and that policy would require us to</p> <p>21 wear rubber boots or a shoe cover to cover</p> <p>22 up their regular shoe if they have it on.</p> <p>23 Q. Does USDA also require that</p> |
| 107   | 109   |
| <p>1 water clinging to surface?</p> <p>2 Q. Is that for food safety</p> <p>3 reasons for Russia?</p> <p>4 A. I don't know why they</p> <p>5 implemented that program.</p> <p>6 Q. Prior to -- Well, let me back</p> <p>7 up. Since you've been at the Equity plant,</p> <p>8 have they always had the foam and rubber</p> <p>9 boots requirement, or this Russian</p> <p>10 requirement as you called it?</p> <p>11 A. They just changed</p> <p>12 throughout -- There's been a lot of changes</p> <p>13 for that requirement as far as what we were</p> <p>14 forced to do by USDA there.</p> <p>15 Q. All right. Was there ever a</p> <p>16 time when the employees had to punch a</p> <p>17 button to get the sanitizers to work on the</p> <p>18 boots, to your knowledge?</p> <p>19 A. No. It's automatic.</p> <p>20 Q. Has it always been automatic</p> <p>21 since you've been there?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know whether, in the</p> | <p>1 they be sanitized, the rubber boot or the</p> <p>2 rubber shoe cover? Or does it just require</p> <p>3 wearing the boots?</p> <p>4 A. I'm not sure how the policy</p> <p>5 reads, but we've always had the sanitizers.</p> <p>6 They were there when I got there. I'm not</p> <p>7 sure what the policy states.</p> <p>8 Q. You don't know who requires</p> <p>9 the sanitizing of the rubber boots or rubber</p> <p>10 shoe covers?</p> <p>11 A. Like I said, the sanitizers</p> <p>12 are there and have been there.</p> <p>13 Q. My question is: Do you know</p> <p>14 who requires that sanitizing of the rubber</p> <p>15 boots or the shoe covers?</p> <p>16 A. Like I said, I'm sure it's</p> <p>17 listed in the Russian requirements. I just</p> <p>18 haven't read it, and I don't know the</p> <p>19 details of it.</p> <p>20 Q. Are you involved any in the</p> <p>21 new-hire training?</p> <p>22 A. No.</p> <p>23 Q. Has USDA -- To your knowledge</p>     |

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| <p style="text-align: right;">110</p> <p>1 has USDA ever tagged Equity for<br/>2 noncompliance on a finished product?<br/>3 A. What sort of finished product?<br/>4 Q. Any. After it's gone through.<br/>5 A. Gone through what?<br/>6 Q. The whole processing, at the<br/>7 end of the stage before it's packed up and<br/>8 shipped out?<br/>9 A. They have applied a tag to<br/>10 finished product, the answer would be yes.<br/>11 Q. Okay. And what was that for?<br/>12 A. What I recall would be for<br/>13 temperature.<br/>14 Q. Temperature of the product?<br/>15 A. Temperature of the product.<br/>16 Q. Are there requirements on the<br/>17 temperature of the product?<br/>18 A. Yes. Must be less than forty<br/>19 degrees prior to shipment.<br/>20 Q. Prior to shipment?<br/>21 A. Uh-huh.<br/>22 Q. What is the temperature of the<br/>23 product as it goes through -- after it comes</p>                      | <p style="text-align: right;">112</p> <p>1 A. I haven't taken any<br/>2 temperatures, I couldn't tell you. The more<br/>3 you handle the product in that environment,<br/>4 it's going to heat up. We apply<br/>5 refrigerant, whether that's ice or CO2, to<br/>6 bring the temperature back down, and once<br/>7 the product is packed it goes to the cooler.<br/>8 Q. What is the goal temperature<br/>9 that Equity tries to keep the product?<br/>10 A. Depends on what stage you're<br/>11 at.<br/>12 Q. After the chiller portion?<br/>13 A. Obviously, you want to keep it<br/>14 as cold as you can. I don't know if there's<br/>15 any set requirements. As far as USDA<br/>16 regulations, product can get up to<br/>17 fifty-five degrees during processing.<br/>18 Obviously, we want to keep it as cold as we<br/>19 can.<br/>20 Q. Okay. What is the temperature<br/>21 in the plant after the -- Are there set --<br/>22 Is there one temperature throughout the<br/>23 plant or does it vary by department?</p> |
| <p style="text-align: right;">111</p> <p>1 out of the chiller?<br/>2 A. Birds exiting the chiller must<br/>3 be below forty. That's a requirement.<br/>4 Q. What is the temperature of<br/>5 most of the birds that come out of your<br/>6 chiller? You said it must be below forty.<br/>7 Is there an average temperature?<br/>8 A. The average temperature range<br/>9 is between thirty-four and thirty-six.<br/>10 Q. Degrees?<br/>11 A. Uh-huh.<br/>12 Q. Is that throughout the whole<br/>13 process of preparing the birds for shipping<br/>14 and finishing?<br/>15 A. No.<br/>16 Q. All right. After the chiller,<br/>17 is that the average temperature, thirty-four<br/>18 degrees to thirty-six degrees?<br/>19 A. After the chiller, after the<br/>20 bird's come out of the chiller, yes, prior<br/>21 to going to deboning.<br/>22 Q. In debone, what is the average<br/>23 temperature once they get on the cone?</p> | <p style="text-align: right;">113</p> <p>1 A. What area are you talking<br/>2 about?<br/>3 Q. That's what I'm trying to find<br/>4 out. Does it vary by -- Does the<br/>5 temperature in the plant vary by the<br/>6 department?<br/>7 A. Departments within the debone<br/>8 department would generally be the same<br/>9 temperature.<br/>10 Q. Okay. Live hanging is not air<br/>11 conditioned, is it, or kept chilled?<br/>12 A. There is a unit there, but<br/>13 it's not kept -- It's kept comfortable, but<br/>14 it's not like you would be working in<br/>15 deboning, it's not that cold.<br/>16 Q. What is the average<br/>17 temperature in the debone department?<br/>18 A. I'm not sure.<br/>19 Q. Is it seventy degrees? Below<br/>20 that?<br/>21 MR. ROSENTHAL: Objection to<br/>22 the form of the question.<br/>23 A. I haven't taken any</p>   |

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1 temperatures. I don't know what temperature  
2 it is.  
3 Q. You've walked in the plant,  
4 haven't you?  
5 A. Sure.  
6 Q. Is it cold?  
7 A. No.  
8 Q. It's not the normal office  
9 setting or what you would keep in your home  
10 unless you like it freezing cold; correct?  
11 A. I don't know how you keep your  
12 home.  
13 Q. Well, earlier we had to cut  
14 the air up because everybody was cold in  
15 here. Is it colder in the plant than we had  
16 it in here?  
17 MR. ROSENTHAL: Objection to  
18 the form of the question. You can answer.  
19 A. Like I said, I've never taken  
20 any temperatures. It's cool in the plant  
21 and it's cold in the plant.  
22 Q. Are there any requirements on  
23 how cold the plant has to be kept?

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1 A. Not that I'm aware of.  
2 Q. Okay. Is the plant kept  
3 colder than seventy degrees?  
4 MR. ROSENTHAL: Objection to  
5 the form.  
6 A. Like I said, I have never  
7 taken any temperatures. I don't know.  
8 Q. Do you see workers wearing  
9 coats to keep warm in the plant or long  
10 sleeves -- not coats, but long sleeves to  
11 keep warm in the plant?  
12 MR. ROSENTHAL: Objection to  
13 the form of the question.  
14 A. I've seen employees wear a  
15 long sleeve. I don't know if it's a coat or  
16 not. Normally when I see them, it's on the  
17 floor.  
18 Q. The plant is kept below  
19 seventy-two degrees, isn't it?  
20 A. I don't know. I don't take  
21 any temperatures.  
22 Q. Is the plant kept below  
23 seventy-five degrees?

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1 MR. ROSENTHAL: Objection to  
2 the form of the question.  
3 Q. Is the plant kept cold enough  
4 to prevent condensation from forming on the  
5 ceiling and falling on the product?  
6 A. We do prevent condensation.  
7 We keep refrigeration on and exhaust fans  
8 running and try to make up air and try to  
9 keep it comfortable and try to keep the  
10 ceiling from sweating so we prevent  
11 condensation.  
12 Q. How many times a week do you  
13 walk in the plant on the production floor?  
14 A. Going in the plant daily, just  
15 in and out of the plant.  
16 Q. And you don't have an estimate  
17 as to what the temperature is in the plant,  
18 on the production floor in debone?  
19 MR. ROSENTHAL: Objection to  
20 the form of the question.  
21 A. Like I said, I've never taken  
22 any temperatures.  
23 Q. My question, do you have an

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1 estimate?  
2 MR. ROSENTHAL: And he  
3 answered that multiple times for you.  
4 MS. MCGOWAN: No. He said he  
5 hasn't taken temperatures. I'm asking if he  
6 has an estimate.  
7 MR. ROSENTHAL: He's answered  
8 that question multiple times.  
9 A. It's comfortable in the plant.  
10 I don't know what the temperature is.  
11 Q. What are cotton gloves for,  
12 cotton liners, for the employees?  
13 A. They're there for if they need  
14 them, warm. Most of them wear them under  
15 their rubber gloves if they so choose.  
16 Q. Is that to keep their hands  
17 warm?  
18 A. Could be, if they -- if that's  
19 why they wanted them.  
20 Q. Has there been any discussion  
21 in the safety meetings or by the ergonomic  
22 team that employees -- about employees  
23 wearing the cotton liners to help with



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| <p style="text-align: right;">118</p> <p>1 circulation?</p> <p>2 A. I'm not involved in the</p> <p>3 ergonomics committee.</p> <p>4 Q. No, sir. My question is: In</p> <p>5 the safety meetings that you attend where</p> <p>6 the ergonomic team makes a report, has there</p> <p>7 been any discussion about the use of cotton</p> <p>8 liners?</p> <p>9 A. I don't recall any.</p> <p>10 Q. Who can change an employee's</p> <p>11 time reports if someone forgets to clock in</p> <p>12 or clock out at the beginning or end of a</p> <p>13 shift?</p> <p>14 A. The supervisors audit time</p> <p>15 sheets and make the changes if necessary.</p> <p>16 Q. You said at the end of a</p> <p>17 shift, the master card's swiped?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Is that a physical swipe?</p> <p>20 A. Yes.</p> <p>21 Q. Where is that done by the --</p> <p>22 Does the supervisor do that?</p> <p>23 A. The superintendents would</p>   | <p style="text-align: right;">120</p> <p>1 MR. ROSENTHAL: Objection to</p> <p>2 the form of the question.</p> <p>3 A. Which shift?</p> <p>4 Q. First shift.</p> <p>5 A. First shift, they would swipe</p> <p>6 it when the work was done depending on the</p> <p>7 department, 4:30, when the work's complete;</p> <p>8 and the live hanging would be when they stop</p> <p>9 hanging birds, and the next shift is coming</p> <p>10 on.</p> <p>11 Q. What about second shift?</p> <p>12 A. They would swipe it when the</p> <p>13 work was complete. There's no set schedule</p> <p>14 or time when they get off.</p> <p>15 Q. Sanitation is not on master</p> <p>16 card are they, time?</p> <p>17 A. I'm not in charge of</p> <p>18 sanitation, but I don't think they are on</p> <p>19 master card.</p> <p>20 Q. When are employees required to</p> <p>21 be on the line at the beginning of their</p> <p>22 shift?</p> <p>23 A. At the beginning of the shift,</p>  |
| <p style="text-align: right;">119</p> <p>1 handle that. I don't know how they've got</p> <p>2 it set up, whether they do it or they have a</p> <p>3 supervisor do it. Some of them do it</p> <p>4 differently.</p> <p>5 Q. Which clock do they use to do</p> <p>6 it?</p> <p>7 A. There's clocks in the break</p> <p>8 room, there's a clock in the supply room. I</p> <p>9 don't know which clock they use to do it</p> <p>10 with, unless they use a -- Any time clock</p> <p>11 will.</p> <p>12 Q. Do you know when they -- Do</p> <p>13 they swipe the clock at the end of the</p> <p>14 shift?</p> <p>15 MR. ROSENTHAL: Objection to</p> <p>16 the form of the question.</p> <p>17 A. Which shift?</p> <p>18 Q. You say that a supervisor goes</p> <p>19 and swipes the master card at the end of a</p> <p>20 shift. Is there a policy about you do it</p> <p>21 when the bird hits the first station in that</p> <p>22 department or the last station or when do</p> <p>23 they swipe the card?</p> | <p style="text-align: right;">121</p> <p>1 they would need to be there to perform their</p> <p>2 job that they're assigned to do.</p> <p>3 Q. At the scheduled time, the</p> <p>4 scheduled start time?</p> <p>5 A. They need to be in there when</p> <p>6 their workload hits their station.</p> <p>7 Q. Are they required to be fully</p> <p>8 dressed with their required items and washed</p> <p>9 and sanitized and ready to begin performing</p> <p>10 when their scheduled shift starts, or can</p> <p>11 they do that after 7:30 -- If you're</p> <p>12 scheduled to start at 7:30, do you have to</p> <p>13 be on the line ready to go at 7:30 or can</p> <p>14 you be at the wash station washing your</p> <p>15 hands at 7:30?</p> <p>16 A. You need to be inside the</p> <p>17 production area, and if your workload is</p> <p>18 there, you need to be there to perform your</p> <p>19 tasks.</p> <p>20 Q. If you're being rotated, do</p> <p>21 you have to know where you're going</p> <p>22 beforehand?</p> <p>23 A. I'm not sure how the rotations</p> |

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1 take place. But, yeah, a supervisor would  
2 tell employees where.  
3 Q. Do you know when employees are  
4 told about the rotation?  
5 A. I don't.  
6 Q. What positions require a  
7 cutting glove on the production line?  
8 A. That would be for the  
9 employee's personal protection, if they were  
10 using a knife or a scissor.  
11 Q. Any other equipment that's  
12 required, if you're using a knife or  
13 scissors?  
14 A. You would need to wear an arm  
15 guard to protect your arm.  
16 Q. Is an arm guard different than  
17 a sleeve?  
18 A. Yes.  
19 Q. Anything else?  
20 A. Of course you'd have on your  
21 rubber gloves and the regular attire.  
22 Q. And the regular attire, we're  
23 talking about the hair net, beard net,

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1 smock, ear plugs, rubber gloves, and boots  
2 or shoe covers?  
3 A. Uh-huh. Yes.  
4 Q. Anything else you consider to  
5 be regular attire?  
6 A. No.  
7 Q. When are aprons required?  
8 A. They're available for the  
9 employees.  
10 Q. Are there any jobs that  
11 require an apron?  
12 A. It's not required.  
13 Q. Why are they required for the  
14 employees?  
15 A. They're there for the  
16 employee, if they want to wear them.  
17 Q. Why would an employee want to  
18 wear them?  
19 MR. ROSENTHAL: Objection to  
20 the form of the question. You can answer.  
21 A. Employees, if they were  
22 getting wet, if they wanted to keep themself  
23 from getting wet.

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1 Q. What happens if an employee's  
2 smock gets wet?  
3 A. They go get a dry one.  
4 Q. Do they have to change it? Is  
5 that a requirement?  
6 A. It's not a requirement. If  
7 they get damp, if they get heavily soiled,  
8 they can change it.  
9 Q. Would an apron prevent a smock  
10 from getting heavily soiled?  
11 A. It depends on what job you  
12 were doing. I suppose it could.  
13 Q. What about chiller rehangers,  
14 do they wear aprons? Have you observed them  
15 wearing aprons?  
16 A. I've seen some wear them and  
17 some not wear them.  
18 Q. Is that a job where the  
19 employees get wet?  
20 A. I've hung birds there and I  
21 don't get wet.  
22 Q. And you say you've hung birds.  
23 How long have you worked the shift?

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1 A. Probably the most would be a  
2 couple of hours hanging birds.  
3 Q. Why were you hanging birds?  
4 A. Short of help.  
5 Q. And you didn't wear an apron?  
6 A. No. I don't ever wear an  
7 apron.  
8 Q. Did you wear plastic sleeves?  
9 A. No.  
10 Q. Did you wear a smock?  
11 A. Yes.  
12 Q. Did you have on a long sleeve  
13 shirt or a short sleeve?  
14 A. I don't recall.  
15 Q. If you'd have had on a long  
16 sleeve shirt that stuck out from under your  
17 smock, would you have had to put on the  
18 plastic sleeves?  
19 A. If they were going to come in  
20 contact with the product, I would have. But  
21 your gloves come up and cover a portion of  
22 your clothing as well.  
23 Q. Did you wear cotton liners?



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1 A. I don't ever wear cotton  
2 liners.  
3 Q. Do you know whether there have  
4 been any time studies conducted in your  
5 plant on how long it takes employees to put  
6 on and sanitize this equipment at the  
7 beginning of the shift?  
8 A. There was some video taken as  
9 part of this litigation, but I wasn't  
10 involved in that and don't know really what  
11 it entails. But as far as time studies,  
12 that's all that I'm aware of.  
13 Q. Do you know who conducted the  
14 video-taking?  
15 A. Malcolm, as part of -- I don't  
16 know the other folks.  
17 Q. Do you know -- Have you ever  
18 timed how long it takes to put on this  
19 equipment and sanitize?  
20 A. No.  
21 Q. Do you know how long it takes  
22 employees to put on the equipment and  
23 sanitize at the beginning of a shift?

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1 A. It don't take that long to do  
2 it. It don't take me long to go in, get  
3 dressed and go in.  
4 Q. How long do you typically stay  
5 on the plant floor when you go in?  
6 A. Depends on what the situation  
7 is and what's happening.  
8 Q. Do you ever stay on it and  
9 work a full eight-hour shift?  
10 A. Not generally. I wouldn't be  
11 on there eight hours.  
12 Q. Employees are entitled to two  
13 breaks per day; is that correct?  
14 A. Two thirty-minute breaks, yes.  
15 Q. Are there any requirements  
16 when they go on their break on what they can  
17 wear outside the production floor?  
18 A. Are you talking about  
19 production? Are you talking about deboning,  
20 inside where the processing --  
21 Q. Inside the plant. Anywhere on  
22 the production floor where you -- I think  
23 you've got deboning and further processing

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1 on what's called the actual production  
2 floor?  
3 MR. ROSENTHAL: Objection.  
4 Further processing is a separate plant.  
5 MS. MCGOWAN: Okay.  
6 Q. When you say further  
7 processing, are you talking about the other  
8 plant or are you talking about a different  
9 department within your plant?  
10 A. I'm talking about the other  
11 plant.  
12 Q. Okay. After debone, are there  
13 other departments in your plant?  
14 A. There's a DSI department,  
15 shipping department.  
16 Q. Are those departments  
17 considered on the production floor, where  
18 they have to put on the required items?  
19 A. DSI would be, yes.  
20 Q. Okay. But not shipping?  
21 A. Shipping is part of the plant.  
22 I mean, they're in and out of the production  
23 floor.

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1 Q. What do you consider the  
2 production floor?  
3 A. Where the work is being done,  
4 deboning and DSI, eviscerating, those areas.  
5 Q. Do you consider live hang part  
6 of the production floor?  
7 A. If you're going to use that  
8 terminology, it could be, yeah.  
9 Q. Is live hang through the doors  
10 where you have to walk through the  
11 sanitizer?  
12 A. There's two double doors down  
13 by live hang that they go through.  
14 Q. Do they have to walk through a  
15 sanitizer?  
16 A. I don't recall. I believe  
17 there's sanitizer down there. I don't  
18 recall.  
19 Q. If you're working in debone  
20 and you want to go on break, or evisc and  
21 you want to go on break, can you wear your  
22 items outside of the production area?  
23 A. You can wear -- Obviously

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1 you've got your boots on and you can wear  
2 your hair net and beard net and you have  
3 your ear plugs on. You can wear those out  
4 of the production floor into the hallways to  
5 go to the break room.  
6 Q. Can you wear them in the break  
7 room? Can you wear your smock in the break  
8 room?  
9 A. You cannot wear your smock.  
10 You leave that hanging on the production  
11 floor.  
12 Q. What about your rubber gloves?  
13 A. Some employees take some of  
14 that with them. Some employees leave the  
15 smock hanging, some roll them up and take  
16 them with them. Some leave their gloves,  
17 some take them with them.  
18 Q. Can you wear your hair net to  
19 the rest room?  
20 A. No.  
21 Q. Can you wear your hair net  
22 outside?  
23 A. No.

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1 Q. Is the only place you can wear  
2 your hair net in the hall or the break room?  
3 A. You can wear it on the  
4 production floor.  
5 Q. Outside the production floor.  
6 A. They wear them in the offices.  
7 Q. All right. Anywhere else in  
8 the plant?  
9 A. Obviously, you have to have  
10 them on to go to the box room.  
11 Q. I'm talking about off the  
12 production floor. If you're on break, if  
13 you're an employee on break, and you leave  
14 the production floor, other than the break  
15 room is there anywhere else -- and maybe the  
16 office, is there anywhere else you can wear  
17 your hair net?  
18 A. No.  
19 Q. And why is that? Why can't  
20 they wear them outside?  
21 A. It's company requirement.  
22 Q. Why can't they wear them in  
23 the rest room?

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1 A. Company requirement.  
2 Q. And is it a company  
3 requirement that you have to leave the smock  
4 on the production floor?  
5 A. We have hooks available for  
6 them to hang their smock on. But if there's  
7 no hook available, they could take it with  
8 them. We prefer them to leave it inside the  
9 production area.  
10 Q. Is it a company requirement  
11 they can't wear it in the break room?  
12 A. They cannot wear it in the  
13 break room?  
14 Q. Yes. The smock?  
15 A. Yes.  
16 Q. And is it a company  
17 requirement that they cannot wear their  
18 smock in the rest room?  
19 A. Yes. They cannot wear it in  
20 the rest room.  
21 Q. Are there any requirements by  
22 the company with regards to returning to  
23 their line or their position on the line

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1 after a break?  
2 Can they just walk back in or  
3 are there any requirements that they have to  
4 do before they can return to the line?  
5 A. Obviously, they're going to go  
6 through the foot sanitizer as they walk back  
7 in; they've got the hair net, beard net on  
8 as they walk back through the door; they've  
9 got their ear plugs in; and they're going to  
10 dress out, wash their hands, and wear their  
11 gloves on, and go to the line.  
12 Q. They have to wash their hands  
13 again before they return to the line?  
14 A. Yeah.  
15 Q. Are there any requirements  
16 about when you have to wash your hands -- or  
17 wash your gloves?  
18 A. Any requirements --  
19 Q. Any company requirements when  
20 you must wash your gloves?  
21 A. They can wash them before  
22 break or after break, depending on. I mean  
23 there's no requirement that says you have to

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1 wash them before you go back to the line,  
2 yes.  
3 Q. What about if they pick up a  
4 piece of product off the floor? Are there  
5 any rules about that with regards to washing  
6 gloves?  
7 A. We've got people that are  
8 assigned to do those jobs, a floor person, a  
9 condemn person. And, yes, if a regular  
10 employee were to pick up meat off the floor,  
11 they should go wash their hands before they  
12 go back to the line.  
13 Q. And that's a company  
14 requirement?  
15 A. Yes.  
16 Q. Does Equity use any hand  
17 sanitizer dips or glove dips?  
18 A. Not that I'm aware of.  
19 Q. Who is responsible for  
20 supervising and monitoring the employees on  
21 the production line on a day-to-day basis to  
22 make sure they've got on their items and  
23 have washed and sanitized their equipment?

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1 MR. ROSENTHAL: Objection to  
2 the form of the question.  
3 A. Supervisors are responsible  
4 for their employees on their line.  
5 Q. Is there anyone responsible  
6 for making sure all employees actually  
7 sanitize their gloves before they go to the  
8 line?  
9 A. Obviously, if we stand there  
10 as management, they're going to do that.  
11 But there's times I'm sure they don't  
12 sanitize before they go back to the line.  
13 Q. Is there a management person  
14 that's responsible for standing there?  
15 A. We don't do that all the time,  
16 no, ma'am.  
17 Q. In your answer it seems to  
18 indicate you do it sometimes. Is there any  
19 set time, you do do it?  
20 A. As far as we do what?  
21 Q. Stand there and make sure they  
22 sanitize?  
23 A. It's not something -- We don't

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1 station a person there all the time. But  
2 there are times, yes, that we do stand there  
3 and make sure employees are washing.  
4 Q. How do you decide when you  
5 will stand there and make sure they're  
6 washing?  
7 A. It just depends on -- I leave  
8 it up to the supervisors, superintendents to  
9 decide what they need to do.  
10 Q. Do you ever -- I mean, is  
11 there like a --  
12 A. We think there's a big issue  
13 or something, where people are not doing it,  
14 then we'll stand there and make sure they go  
15 through.  
16 Q. How do you find out if there's  
17 an issue of people not monitoring -- or not  
18 washing?  
19 A. Someone would normally tell  
20 me, or we've got the QA department, hey,  
21 we've got people not washing their hands.  
22 Q. What is the QA department's  
23 responsibility?

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1 A. It's a vast majority of  
2 responsibilities, several things to do in  
3 the plant.  
4 Q. All right. What are those  
5 things?  
6 A. It depends on the department.  
7 Q. With regards to production  
8 line.  
9 A. Depends on what production  
10 area.  
11 Q. Debone.  
12 A. Debone, QA would perform tasks  
13 of checking the product to make sure that it  
14 met product specifications as it was being  
15 packaged.  
16 Q. What about evisc? What's QA's  
17 responsibility? I'm sorry, did I interrupt  
18 you? Have you told me everything?  
19 A. There's other responsibilities  
20 in deboning.  
21 Q. Tell me about those then.  
22 A. They monitor the floor  
23 conditions, sanitary conditions, they

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| <p>1 monitor employees.</p> <p>2 Q. What do they monitor with</p> <p>3 regards to the employees?</p> <p>4 A. Make sure the employees are</p> <p>5 adhering to sanitary conditions and the</p> <p>6 guidelines set. They've got their hair net</p> <p>7 on, beard net on, ear plugs in. Monitor for</p> <p>8 condensation.</p> <p>9 Q. How do they monitor for</p> <p>10 condensation?</p> <p>11 A. Walk around and look for it.</p> <p>12 Q. Are you talking about on the</p> <p>13 walls and ceilings?</p> <p>14 A. Uh-huh.</p> <p>15 Q. All right. Anything else?</p> <p>16 A. I'm not over that department</p> <p>17 now. I'm sure there's a lot of other stuff</p> <p>18 they do.</p> <p>19 Q. What about evisc department?</p> <p>20 A. They would do specific line</p> <p>21 checks to make sure product was being</p> <p>22 produced accordingly over there as well, and</p> <p>23 then they would make -- do the same</p>  | <p>1 up and get it ready for the chiller. Then</p> <p>2 it would be inspected and passed before it</p> <p>3 would go into the chiller.</p> <p>4 Q. Are the employees in the</p> <p>5 salvage department required to wear any</p> <p>6 specific items?</p> <p>7 A. What specific items?</p> <p>8 Q. Do they have to wear a hair</p> <p>9 net, beard net, smock, or can they work in</p> <p>10 their street clothes, the salvage</p> <p>11 department?</p> <p>12 A. They need to have those items</p> <p>13 on, the hair net, beard net, smock, ear</p> <p>14 plugs, they wear the rubber boots; if</p> <p>15 they're going to use a knife or a scissor,</p> <p>16 they need to have on a chain glove and a arm</p> <p>17 guard.</p> <p>18 Q. Do they have to wear rubber</p> <p>19 gloves?</p> <p>20 A. They would have on rubber</p> <p>21 gloves, yes.</p> <p>22 Q. Can employees wear baseball</p> <p>23 caps?</p> |
| 139  | 141  |
| <p>1 monitoring of the employees, monitor the</p> <p>2 area for condensation, do specific checks</p> <p>3 that are required by the U.S. government,</p> <p>4 presentation, pre- and post-chill checks.</p> <p>5 And also they would work in salvage</p> <p>6 department and make sure that operation is</p> <p>7 running right.</p> <p>8 There's also some</p> <p>9 temperatures, where they would need to be</p> <p>10 taking temperatures, do paw checks and make</p> <p>11 sure the paw system is operating efficiently</p> <p>12 and correctly.</p> <p>13 Q. The salvage department, tell</p> <p>14 me again what that does.</p> <p>15 A. If USDA, on a bird-by-bird</p> <p>16 inspection, if they deem a bird salvageable,</p> <p>17 which means there's an effective part that</p> <p>18 needs to be removed, they would take that</p> <p>19 bird off the evisceration line and send it</p> <p>20 to salvage. And then those employees in the</p> <p>21 salvage department, depending on what's</p> <p>22 wrong with that bird, what it was sent over</p> <p>23 there for, they would cut it off or clean it</p> | <p>1 A. No.</p> <p>2 Q. What about safety glasses?</p> <p>3 A. It's not a requirement. There</p> <p>4 are some specific departments that we do</p> <p>5 issue safety glasses to, but we issue them</p> <p>6 and record them and take them up at the end</p> <p>7 of the shift.</p> <p>8 Q. Did employees used to wear</p> <p>9 safety glasses in the plant?</p> <p>10 A. Yes, they did.</p> <p>11 Q. When was that practice</p> <p>12 eliminated?</p> <p>13 A. I don't recall the exact time</p> <p>14 frame when it was eliminated.</p> <p>15 Q. Has it been within the last</p> <p>16 year?</p> <p>17 A. I honestly can't remember.</p> <p>18 It's not been that long ago, but I don't</p> <p>19 recall.</p> <p>20 Q. Why was the practice</p> <p>21 eliminated?</p> <p>22 A. It was company choice to pull</p> <p>23 those off due to not being able to maintain</p>  |

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| <p style="text-align: right;">142</p> <p>1 control of them and track them and keep them<br/>2 out from getting into product. And so we<br/>3 evaluated the process and decided that only<br/>4 specific areas needed to wear safety<br/>5 glasses, and the other areas didn't have to<br/>6 wear them.<br/>7 Q. What areas needed safety<br/>8 glasses?<br/>9 A. We've got them assigned to<br/>10 live hang, they wear a safety goggle. And<br/>11 then the safety goggles are also available<br/>12 for folks who use high pressure hoses.<br/>13 Q. Any other areas?<br/>14 A. There's some in the QA<br/>15 department, but not everyone wears them in<br/>16 the QA department. I'm not sure of those<br/>17 jobs.<br/>18 Q. Would the people using the<br/>19 high pressure hoses be in sanitation?<br/>20 A. No, ma'am.<br/>21 Q. Who uses high pressure hoses?<br/>22 A. We would use them to clean up<br/>23 the floor at break and stuff like that;</p>   | <p style="text-align: right;">144</p> <p>1 in the production area?<br/>2 A. No.<br/>3 Q. Are employees allowed to stay<br/>4 on the production line area during the<br/>5 break, if they're washing down the area?<br/>6 A. No. They need to go off the<br/>7 production floor.<br/>8 Q. Look at what was marked as<br/>9 Exhibit 17. Do you know what this is?<br/>10 A. It says good manufacturing<br/>11 practices.<br/>12 Q. Have you ever seen this<br/>13 document?<br/>14 A. Not before now.<br/>15 Q. Not before now?<br/>16 A. Not before today, no.<br/>17 Q. It's got a place for your<br/>18 signature on it.<br/>19 A. It does.<br/>20 Q. Have you ever signed any such<br/>21 similar document? Maybe not this one.<br/>22 A. I don't recall signing this<br/>23 document, no.</p>  |
| <p style="text-align: right;">143</p> <p>1 break time production people would. Whether<br/>2 be it a high pressure or medium pressure,<br/>3 they're required to wear the goggles. And<br/>4 then sanitation has always worn the safety<br/>5 goggles.<br/>6 Q. During breaks, do you clean<br/>7 the area while the -- When you say the<br/>8 people during breaks, explain what's<br/>9 happening cleaning with the hoses during<br/>10 break.<br/>11 A. There's always general cleanup<br/>12 going on, even while the operation is<br/>13 running; we have people that are assigned to<br/>14 keep the floor in order. And as employees<br/>15 leave the line for breaks, there are people<br/>16 assigned to take up the knives and scissors<br/>17 if they're out and exchange those, and the<br/>18 area's rinsed down and try to knock down the<br/>19 bigger pieces of product, knock them down<br/>20 off the machinery and get them into a drain<br/>21 and cleanup the area before the employees<br/>22 come back.<br/>23 Q. Are employees allowed to eat</p> | <p style="text-align: right;">145</p> <p>1 There's people that put these<br/>2 things together. The QA department only<br/>3 does it. I'm responsible, but I've never<br/>4 signed it, that I recall.<br/>5 Q. And you've never seen it<br/>6 before today?<br/>7 A. No.<br/>8 Q. No, you've never seen it?<br/>9 A. Not before today, no.<br/>10 Q. Okay. Let's look at the front<br/>11 page of it, where it says P 20322 under<br/>12 slaughter debone and further processing. Do<br/>13 you see that number?<br/>14 A. (Witness nods head in the<br/>15 affirmative.)<br/>16 Q. What is that number?<br/>17 A. P 20322?<br/>18 Q. Uh-huh.<br/>19 A. That's the plant number issued<br/>20 by the USDA. That's the plant -- number of<br/>21 the plant.<br/>22 Q. Does that include the whole<br/>23 complex or just the first processing?</p> |



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1 A. It includes the whole complex.  
2 Q. Including further processing  
3 plant?  
4 A. Yes.  
5 Q. All right. Take a moment and  
6 flip through this, since you've never seen  
7 it, because I want to ask you some questions  
8 about it.  
9 A. (Witness complies.)  
10 Q. Have you had a chance to look  
11 at it?  
12 A. I've scanned it.  
13 Q. All right. In scanning  
14 Plaintiff's Exhibit 17, do you know whether  
15 these good manufacturing practices are in  
16 effect at the plant today?  
17 MR. ROSENTHAL: Objection to  
18 the form of the question. You can answer.  
19 A. As I said, I've never seen the  
20 document, so I --  
21 Q. What are GMPs, or good  
22 manufacturing practices?  
23 A. Guidelines to follow when

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1 you're producing edible product. I mean,  
2 you need to.  
3 Q. Go ahead. I didn't mean to  
4 interrupt you.  
5 A. All companies set those  
6 policies. They're different for different  
7 companies.  
8 Q. Does Equity have -- Can we  
9 call them GMPs for short?  
10 A. Uh-huh.  
11 Q. Does Equity have GMPs?  
12 A. Yes.  
13 Q. All right. Look at what was  
14 previously marked as Exhibit Number 4 -- 3,  
15 in this book here (indicating)?  
16 A. Tab 3?  
17 Q. Tab 3.  
18 A. Okay.  
19 Q. Are these the -- Have you ever  
20 seen this document that's entitled Equity  
21 Group, Eufaula Division, L.L.C., good  
22 manufacturing practices, fresh processing,  
23 with a revision date of 10/2/06?

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1 A. I don't -- I don't recall  
2 seeing the document. No, I don't.  
3 Q. Have you ever seen any written  
4 GMPs for the fresh product plant -- fresh  
5 processing plant?  
6 A. I don't recall seeing any.  
7 Q. Are there written GMPs for  
8 your plant?  
9 MR. ROSENTHAL: Objection to  
10 the form of the question.  
11 A. There are policies that we  
12 follow. But like I said, I've never seen  
13 either one of these.  
14 Q. All right. What kind of  
15 policies do you follow? You said there are  
16 policies that you follow. Are they written  
17 policies?  
18 A. I don't see the -- A lot of  
19 time I don't see the written documentation.  
20 I mean, I know through my years in the  
21 business kind of what's allowed and what's  
22 not allowed and what people should do.  
23 Q. Who's responsible for making

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1 sure there are written GMPs?  
2 A. QA department.  
3 Q. And the reason for GMPs again?  
4 Why do you have GMPs?  
5 A. They are good manufacturing  
6 practices that you want to establish for  
7 things -- rules you want to follow while  
8 you're producing product to make sure you're  
9 producing them safely and wholesome.  
10 Q. Is that so you have  
11 noncontaminated product?  
12 A. Like, again, contamination is  
13 a big word. But, yeah, you don't want stuff  
14 to end up in your product and get to a  
15 customer. And you don't want -- you want --  
16 There's just certain rules you have to  
17 follow.  
18 Q. All right. Take a moment and  
19 flip through these exhibits that have been  
20 marked one through fifteen in this book and  
21 see if there are any -- You said you don't  
22 recognize that document, if there are any  
23 GMPs that you do recognize?

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| <p style="text-align: right;">150</p> <p>1 A. Okay.</p> <p>2 Q. Or work rules relating to</p> <p>3 GMPs?</p> <p>4 A. (Witness complies.)</p> <p>5 I don't recognize anything</p> <p>6 pertaining to the GMPs that I've seen.</p> <p>7 Q. Okay. Are you aware of any</p> <p>8 documents relating to GMPs that are not</p> <p>9 in -- look and see if there are any here.</p> <p>10 These documents or those?</p> <p>11 A. What other one?</p> <p>12 Q. That's not going to have any</p> <p>13 GMPs in it. Are you aware of -- Just so</p> <p>14 I'm -- Just so your testimony's clear,</p> <p>15 you've seen other documents relating to</p> <p>16 GMPs, but you don't see any of those</p> <p>17 documents here today?</p> <p>18 MR. ROSENTHAL: Object to the</p> <p>19 form of the question.</p> <p>20 Q. Is that correct?</p> <p>21 A. No. What I said was that all</p> <p>22 companies develop GMPs, and I recall in my</p> <p>23 past working on GMPs in other companies,</p> | <p style="text-align: right;">152</p> <p>1 are required to sign a document such as</p> <p>2 Exhibit Number 2 when they come to work?</p> <p>3 A. Do I know this -- We have an</p> <p>4 employee orientation manual. I don't know</p> <p>5 what's entailed in it, and I'm not involved</p> <p>6 in orientation.</p> <p>7 Q. Who does the orientation?</p> <p>8 A. The human resource group.</p> <p>9 Q. Do you know who is responsible</p> <p>10 for training the employees on the GMPs for</p> <p>11 Equity?</p> <p>12 A. They get their initial</p> <p>13 training in human resource, and then I'm</p> <p>14 sure on the job, employees will learn from</p> <p>15 their supervisors. Like I said, I don't get</p> <p>16 involved in these documents.</p> <p>17 Q. Do you get involved in any of</p> <p>18 the training?</p> <p>19 A. I don't get involved in any of</p> <p>20 the training either.</p> <p>21 Q. Look at Exhibit Number 1.</p> <p>22 Have you had any involvement in new hire</p> <p>23 GMP -- drafting new hire GMP policy?</p> |
| <p style="text-align: right;">151</p> <p>1 things you learn throughout where you're</p> <p>2 working is what I'm saying. But I don't</p> <p>3 recall seeing these documents.</p> <p>4 Q. I'm trying to find out while</p> <p>5 you're working at Equity -- since you've</p> <p>6 been working at Equity, have you seen any</p> <p>7 written GMPs?</p> <p>8 A. I know they're posted. But I</p> <p>9 don't -- Like I said, I don't read them. I</p> <p>10 don't get down to the -- Go ahead.</p> <p>11 Q. Go ahead. I didn't mean to</p> <p>12 interrupt you.</p> <p>13 A. Go ahead.</p> <p>14 Q. Finish your answer. I didn't</p> <p>15 mean to interrupt you.</p> <p>16 MR. ROSENTHAL: I think his</p> <p>17 answer's done.</p> <p>18 A. I'm done.</p> <p>19 Q. Look at Exhibit Number 2.</p> <p>20 Have you ever seen a document like this?</p> <p>21 A. I don't recall ever seeing</p> <p>22 this specific document, no.</p> <p>23 Q. Do you know whether employees</p>        | <p style="text-align: right;">153</p> <p>1 A. No.</p> <p>2 Q. Since you've been at Equity,</p> <p>3 have you had any involvement in drafting GMP</p> <p>4 policy?</p> <p>5 A. Not that I can recall.</p> <p>6 Q. Since you've been at Equity,</p> <p>7 have you had any involvement in drafting</p> <p>8 work rules?</p> <p>9 A. Work rules?</p> <p>10 Q. Uh-huh. For employees.</p> <p>11 A. I haven't been -- I'm sure</p> <p>12 there's stuff we discuss verbally. I don't</p> <p>13 know how much written stuff has been done,</p> <p>14 but as far as work rules, as far as changing</p> <p>15 stuff on the floor.</p> <p>16 Q. With whom would you have these</p> <p>17 discussions?</p> <p>18 A. Well, they would be different</p> <p>19 things. Like the amount of CO2 we put on</p> <p>20 product, that you change depending on what</p> <p>21 season it is. But as far as work rules as</p> <p>22 far as --</p> <p>23 Q. For the employees.</p>  |



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| <p>154</p> <p>1 A. -- as far as developing<br/>2 procedures and other, it would be hands-on<br/>3 and managing the people and verbally<br/>4 communicating with them. That's pretty much<br/>5 what takes place.<br/>6 Q. Are you involved in the<br/>7 disciplinary process of employees --<br/>8 A. Yes.<br/>9 Q. -- in your position?<br/>10 A. Yes.<br/>11 Q. What's your involvement?<br/>12 A. If it makes it to me, then I'm<br/>13 involved with normally HR, human resource,<br/>14 the employee, and union representative. And<br/>15 we decide what progressive discipline or<br/>16 decide what needs to be done depending on<br/>17 the situation. But they very seldom make it<br/>18 to me. That's normally handled with the<br/>19 supervisor and HR -- or superintendent.<br/>20 Q. Do you have an estimate of<br/>21 about how many have been brought to you as<br/>22 plant manager?<br/>23 A. I don't.</p> | <p>156</p> <p>1 manual?<br/>2 A. I have not.<br/>3 Q. Look at Exhibit 14, which<br/>4 appear to be -- and flip through 14.<br/>5 There are two letters from<br/>6 the -- form letters from the DOL. Have you<br/>7 ever seen these documents?<br/>8 A. No.<br/>9 Q. All right. Look at Exhibit<br/>10 Number 9. Have you ever seen this employee<br/>11 orientation manual?<br/>12 A. I've seen the outside cover of<br/>13 it but I've never looked through it.<br/>14 Q. Who's responsible for<br/>15 preparing the employee orientation manual?<br/>16 A. The human resource department,<br/>17 I assume takes care of all that.<br/>18 Q. Do you have any involvement in<br/>19 orientation process for new hires?<br/>20 A. I do not.<br/>21 Q. Do you have any involvement in<br/>22 hiring new hires?<br/>23 A. I do not.</p>  |
| <p>155</p> <p>1 Q. Less than a dozen?<br/>2 A. I don't know exact. It could<br/>3 be more than that, I don't remember. It's<br/>4 not something I keep up with.<br/>5 Q. All right. Look at Exhibit<br/>6 Number 13 and tell me if you know what<br/>7 this -- if you've ever seen this document.<br/>8 A. No.<br/>9 Q. Do you know what this is?<br/>10 A. I really don't know what it<br/>11 is.<br/>12 Q. Okay. Do you keep up with --<br/>13 it looks like it says work rules, and it<br/>14 looks like it's printed off the computer.<br/>15 Is there some program that you're aware of<br/>16 that provides this information?<br/>17 A. I do not know.<br/>18 Q. Do you have -- Do you ever use<br/>19 the Kronos, K-R-O-N-O-S, time report? Do<br/>20 you ever go into the computer and look at<br/>21 any of that?<br/>22 A. I do not.<br/>23 Q. Have you reviewed the Kronos</p>                                      | <p>157</p> <p>1 Q. Look at page fifty-two of<br/>2 Exhibit 9.<br/>3 A. (Witness complies.)<br/>4 Q. Under ergonomic principles,<br/>5 three up from the bottom, the little bullet<br/>6 points, it says: Take mini breaks during<br/>7 work.<br/>8 Do you know what they're<br/>9 talking about there?<br/>10 A. I have no idea.<br/>11 Q. Do you know whether employees<br/>12 take mini breaks during work?<br/>13 A. I don't know.<br/>14 Q. Scan through these ergonomic<br/>15 principles and see if these are things that<br/>16 are discussed during your safety minutes and<br/>17 when the ergonomic team gives their report.<br/>18 A. (Witness complies.)<br/>19 As I said earlier, the only<br/>20 thing that's brought to my attention are the<br/>21 rotation sheets and the number that they<br/>22 audited. And I don't know what's discussed<br/>23 in here.</p> |

| 158   | 160  |
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| <p>1 Q. What's the goal of the audit<br/>2 team?<br/>3 A. I don't know that we've ever<br/>4 discussed a goal. But I'm sure that the<br/>5 more -- the higher the number, the better<br/>6 we're going to be as far as taking care of<br/>7 the employees. I don't know that a goal has<br/>8 ever been mentioned that I'm aware of.<br/>9 Q. When you say higher the<br/>10 number, I don't know what you mean. Can you<br/>11 explain?<br/>12 A. That successfully rotate a<br/>13 high percentage of employees.<br/>14 Q. Are you aware whether<br/>15 employees actually do ergonomic exercises?<br/>16 A. We have done them in the past.<br/>17 Q. And why were they doing these<br/>18 exercises in the past?<br/>19 A. To help the employee loosen<br/>20 up, loosen up their hands and mainly their<br/>21 shoulders before they begin work.<br/>22 Q. Were these exercises you did<br/>23 in the past mandatory?</p> | <p>1 the work area, after visiting rest rooms,<br/>2 and at any other times when hands have<br/>3 become soiled or contaminated.<br/>4 Is that practice in effect<br/>5 today at Equity Group?<br/>6 A. It is in effect that employees<br/>7 should wash their hands. But as I stated<br/>8 earlier, I'm sure there's some that do not<br/>9 that we do not catch.<br/>10 Q. If you catch an employee not<br/>11 washing their hand after visiting the rest<br/>12 room and returning to the production floor,<br/>13 could you use progressive discipline on that<br/>14 employee?<br/>15 A. Yes.<br/>16 Q. Do you know what the speed of<br/>17 the line is?<br/>18 MR. ROSENTHAL: Objection to<br/>19 the form of the question.<br/>20 A. What line are you talking<br/>21 about?<br/>22 Q. Let's say once in the evisc<br/>23 department, what is that? Is there a set</p>   |
| 159   | 161  |
| <p>1 A. When we were doing them, yes.<br/>2 But we lack in that area. We don't do them<br/>3 like we should.<br/>4 Q. And where were they conducted?<br/>5 A. Once the employees got on the<br/>6 line or got in their area. It's mainly just<br/>7 before the debone lines.<br/>8 Q. Is this before the scheduled<br/>9 shift of 7:30?<br/>10 A. No.<br/>11 Q. After 7:30?<br/>12 A. It would be after the employee<br/>13 got on the line, yes.<br/>14 Q. Look at Exhibit 17, on page<br/>15 eleven of thirteen, under sanitation<br/>16 related --<br/>17 A. Uh-huh.<br/>18 Q. -- number four. Read that,<br/>19 please.<br/>20 A. (Witness complies.) Okay.<br/>21 Q. The second sentence says:<br/>22 Employees must wash and sanitize hands<br/>23 before starting work after each absence from</p>   | <p>1 speed to the line, how many birds per<br/>2 minute?<br/>3 A. Generally, we try to run about<br/>4 two hundred and forty birds per minute on<br/>5 the kill line; when that branches off to the<br/>6 evisc line, it's one twenty. It fluctuates<br/>7 throughout the day.<br/>8 Q. The evisc line is one hundred<br/>9 and twenty birds per minute?<br/>10 A. One twenty and one twenty,<br/>11 there's two of those.<br/>12 Q. What about in debone? What is<br/>13 the speed of the line in birds per minute?<br/>14 A. Some lines vary depending on<br/>15 the tenure of the employee. If you're on a<br/>16 training line, it runs eight or ten birds a<br/>17 minute, all the way up to if you're on a<br/>18 seasoned line where you've got tenured<br/>19 employees, it could get up to thirty-eight a<br/>20 minute.<br/>21 Q. At the end of the shift, the<br/>22 employees leave for the day, are they<br/>23 required to sanitize any of their equipment</p> |

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| <p style="text-align: right;">162</p> <p>1 or items?</p> <p>2 A. I don't know that it's a</p> <p>3 requirement. I see a lot of them clean up</p> <p>4 at the end of the day. It needs to be clean</p> <p>5 before they start the next morning. I'm</p> <p>6 sure, again, there's some that get through</p> <p>7 and don't wash up.</p> <p>8 Q. What do they do with their</p> <p>9 smocks at the end of the day?</p> <p>10 A. They drop them in the clothes</p> <p>11 bin just outside the double doors.</p> <p>12 Q. Can they take them home and</p> <p>13 wash them?</p> <p>14 A. No.</p> <p>15 Q. If an employee is working in</p> <p>16 debone, and they're going to be rotated, do</p> <p>17 they have to have all of the -- like an arm</p> <p>18 guard available once they get on the line,</p> <p>19 have it with them in case they need to be</p> <p>20 rotated to a position that has to -- that</p> <p>21 uses knives and need an arm guard?</p> <p>22 MR. ROSENTHAL: Objection to</p> <p>23 the form of the question.</p> | <p style="text-align: right;">164</p> <p>1 A. The knife and the chain glove</p> <p>2 are there for that position, yes.</p> <p>3 Q. What about the arm guard? Is</p> <p>4 that there with the knife and the chain</p> <p>5 glove, or does the employee have to have</p> <p>6 that with them when they report to the line?</p> <p>7 A. The employee has that with</p> <p>8 them.</p> <p>9 Q. Did you ever see the results</p> <p>10 of any of the videotape studies done?</p> <p>11 A. No.</p> <p>12 Q. Were you ever told by anyone</p> <p>13 what the results of the videotape studies</p> <p>14 were?</p> <p>15 A. No.</p> <p>16 MS. MCGOWAN: Let me have a</p> <p>17 quick five-minute break.</p> <p>18 (Recess taken.)</p> <p>19 Q. (BY MS. MCGOWAN): Was there</p> <p>20 ever a time that employees took home their</p> <p>21 smocks and washed them?</p> <p>22 A. Yes.</p> <p>23 Q. When was that?</p>   |
| <p style="text-align: right;">163</p> <p>1 A. If an employee is going to</p> <p>2 work on the debone line and they need a</p> <p>3 knife or a scissor, they would have to wear</p> <p>4 an arm guard.</p> <p>5 Q. Is that provided by their</p> <p>6 supervisor or do they have to have it with</p> <p>7 them when they get to the line?</p> <p>8 A. It's provided to them, the arm</p> <p>9 guard.</p> <p>10 Q. That's something the company</p> <p>11 keeps and hands out?</p> <p>12 A. It's at the supply window, and</p> <p>13 they provide it for them.</p> <p>14 Q. No. No. I'm talking about --</p> <p>15 I didn't make that clear.</p> <p>16 If an employee is working on</p> <p>17 the debone line and they're using knives,</p> <p>18 they don't bring the knives to the line with</p> <p>19 them, do they?</p> <p>20 A. The employee does not, no.</p> <p>21 Q. Those are put on the line by</p> <p>22 either their supervisor or the setup person;</p> <p>23 is that correct?</p>   | <p style="text-align: right;">165</p> <p>1 A. Prior to us going to our own</p> <p>2 laundry service.</p> <p>3 Q. When did you go to your own</p> <p>4 laundry service?</p> <p>5 A. I don't know the exact time.</p> <p>6 But I know the contract is up for renewal</p> <p>7 this year. I think it was a three-year</p> <p>8 contract, so sometime in -- I don't really</p> <p>9 know, sometime in '05, I assume. I don't</p> <p>10 really recall.</p> <p>11 Q. Did you have any involvement</p> <p>12 in making the decision to enter into the</p> <p>13 laundry service contract?</p> <p>14 A. No.</p> <p>15 Q. Who made that decision?</p> <p>16 A. I really don't know who was</p> <p>17 involved in all that.</p> <p>18 Q. Do you know why the decision</p> <p>19 was made.</p> <p>20 A. The decision was made -- I do</p> <p>21 know why. The decision was made to maintain</p> <p>22 control over those smocks, as far as the</p> <p>23 food safety aspect. Employees were taking</p> |

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| 166  | 168   |
| <p>1 them and laundering them, and maybe they<br/>2 were and maybe they wasn't and storing them<br/>3 in their car. We wanted to give them a<br/>4 fresh, clean smock every day before they<br/>5 went onto the floor.<br/>6 Q. For good safety standards?<br/>7 A. Uh-huh.<br/>8 Q. Yes?<br/>9 A. Yes.<br/>10 Q. Do you know whether employees<br/>11 ever have to return early from their break<br/>12 time to find out where they're going to be<br/>13 on the line, when they're rotating them from<br/>14 position to position?<br/>15 A. I'm not aware of that, no.<br/>16 Q. Do you know when employees are<br/>17 told with regards to break whether they'll<br/>18 be rotated?<br/>19 A. Like I said, I'm not involved<br/>20 in rotation, so I don't know how that's --<br/>21 how that takes place.<br/>22 Q. All right. You keep saying HR<br/>23 handles certain things. Who is HR? Who are</p> | <p>1 supervisors adhere to the policy and<br/>2 following the right procedures.<br/>3 Q. Who in HR does the employee<br/>4 orientation?<br/>5 A. I don't know how that's done.<br/>6 Q. Okay. Do you know who in HR<br/>7 does the informing the employees about these<br/>8 GMPs?<br/>9 A. I don't know how that's<br/>10 covered in the orientation, I don't know.<br/>11 Q. Who is Lisa Ledbetter?<br/>12 A. Lisa Ledbetter is a person<br/>13 that works in -- I'm sorry. I don't know if<br/>14 that's her name or not. I'm not sure who<br/>15 Lisa Ledbetter is. I'm thinking if that was<br/>16 her name or not, and I'm not sure. I don't<br/>17 know.<br/>18 Q. Is there a manager named Lisa<br/>19 in HR?<br/>20 MR. KISER: Is it Felicia?<br/>21 A. There is a Felicia, but I<br/>22 don't know her last name.<br/>23 Q. And Felicia, what is her job?</p>   |
| 167  | 169   |
| <p>1 you referring to when you say HR handles<br/>2 something?<br/>3 A. I would be referring to the<br/>4 department as a whole. But there's specific<br/>5 people in that department.<br/>6 Q. Is there a HR department for<br/>7 each plant or for the whole complex or how<br/>8 does that work?<br/>9 A. There's one HR department for<br/>10 both facilities, both fresh and the further<br/>11 plant.<br/>12 Q. Okay. Who is Kathy Gilmore?<br/>13 A. She is the human resource<br/>14 manager.<br/>15 Q. For the whole complex?<br/>16 A. Yes.<br/>17 Q. Okay. Does she have anything<br/>18 to do with discipline?<br/>19 A. Yes.<br/>20 Q. What's her job with<br/>21 discipline?<br/>22 A. She gets involved with<br/>23 discipline if necessary to make sure we --</p>  | <p>1 A. To be honest with y'all, I<br/>2 don't know if her name is Felicia or not. I<br/>3 don't know. You're going to have to ask me<br/>4 about somebody else, because I don't know.<br/>5 Q. I'm trying to find out what<br/>6 this person does. Do you know what she<br/>7 does?<br/>8 MR. ROSENTHAL: If you don't<br/>9 know who she is --<br/>10 A. I don't.<br/>11 Q. All right. With regards to<br/>12 the donning and doffing and sanitizing of<br/>13 these items or protective gear, does it<br/>14 differ any from department to department?<br/>15 A. Repeat that question one more<br/>16 time.<br/>17 Q. With regards to the donning<br/>18 and doffing or putting on at the beginning<br/>19 of the shift and sanitizing and the taking<br/>20 off and cleaning up, either during breaks or<br/>21 at the end of the day, does that differ any<br/>22 from department to department?<br/>23 MR. ROSENTHAL: Objection to</p> |

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| <p>170</p> <p>1 the form of the question.</p> <p>2 Q. In the production lines.</p> <p>3 A. On the deboning line,</p> <p>4 generally, everybody does things virtually</p> <p>5 the same as far as the way they put on and</p> <p>6 take off their clothing. Evisceration</p> <p>7 should be the same as well.</p> <p>8 When I go in, I put mine on</p> <p>9 the same way all the time, and it takes me</p> <p>10 about thirty seconds, forty seconds, it's on</p> <p>11 and I'm in the plant, my hands are washed,</p> <p>12 and I'm on the line.</p> <p>13 Q. So everybody has to put on</p> <p>14 this equipment and wash their hands to go in</p> <p>15 the plant; correct?</p> <p>16 A. Not everybody would wear the</p> <p>17 same equipment, no. You're going to have to</p> <p>18 specify what you're talking about they're</p> <p>19 putting on.</p> <p>20 Q. Well, there's basic equipment</p> <p>21 everybody has to put on; correct?</p> <p>22 MR. ROSENTHAL: Objection to</p> <p>23 the form of the question.</p> | <p>172</p> <p>1 Q. Right. Do you have to</p> <p>2 sanitize that arm guard?</p> <p>3 A. I'm sure when they're</p> <p>4 washing -- I don't know if they sanitize</p> <p>5 them or not.</p> <p>6 Q. Do you know whether they</p> <p>7 sanitize their aprons?</p> <p>8 A. I don't know what they do with</p> <p>9 their aprons.</p> <p>10 Q. Or their sleeves?</p> <p>11 A. They clean them up. I'm not</p> <p>12 sure how -- I haven't watched to see how</p> <p>13 they -- what they put on them to clean up.</p> <p>14 I'm not sure if it's just water.</p> <p>15 MS. MCGOWAN: That's all I</p> <p>16 have.</p> <p>17 MR. ROSENTHAL: I don't have</p> <p>18 any, Robin.</p> <p>19 (The deposition was concluded at 12:15 p.m.,</p> <p>20 June 12th, 2008.)</p> <p>21</p> <p>22</p> <p>23</p>   |
| <p>171</p> <p>1 Q. Basic items. You've got to</p> <p>2 have your boots, your hair net, your beard</p> <p>3 net, your ear plugs, and a smock?</p> <p>4 A. Correct.</p> <p>5 Q. And you have to wash your</p> <p>6 hands or your gloves before you can get on</p> <p>7 the line; correct -- or before you can go</p> <p>8 through the plant?</p> <p>9 A. For -- There's maintenance</p> <p>10 mechanics that don't wear gloves.</p> <p>11 Q. Do they have to wash their</p> <p>12 hands when they enter the floor?</p> <p>13 A. They should wash their hands</p> <p>14 before they enter the floor.</p> <p>15 Q. That's what I'm trying to find</p> <p>16 out. Everybody has to do that before they</p> <p>17 go on the floor?</p> <p>18 A. They should do that, yes.</p> <p>19 Q. And then if you're working</p> <p>20 with a knife or scissors, you may add an arm</p> <p>21 guard?</p> <p>22 A. You should have that with you</p> <p>23 when you go through the door.</p>   | <p>173</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 STATE OF ALABAMA,</p> <p>3 ELMORE COUNTY,</p> <p>4 I, Sara Mahler, Certified Court</p> <p>5 Reporter and Commissioner for the State of</p> <p>6 Alabama at Large, do hereby certify that the</p> <p>7 above and foregoing proceeding was taken</p> <p>8 down by me by stenographic means, and that</p> <p>9 the content herein was produced in</p> <p>10 transcript form by computer aid under my</p> <p>11 supervision, and that the foregoing</p> <p>12 represents, to the best of my ability, a</p> <p>13 true and correct transcript of the</p> <p>14 proceedings occurring on said date and at</p> <p>15 said time.</p> <p>16 I further certify that I am neither</p> <p>17 of kin nor of counsel to the parties to the</p> <p>18 action; nor in any manner interested in the</p> <p>19 result of said case.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>Sara Mahler, CCR<br/>ACCR #420</p> |

**TAB 52**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
LARRY THOMAS, JR.

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| <p style="text-align: right;">2</p> <p>1 STIPULATION</p> <p>2</p> <p>3 IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of LARRY THOMAS,</p> <p>6 JR., may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 23rd day</p> <p>10 of May, 2008.</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18 IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2 EXAMINATION BY: PAGE NUMBER:</p> <p>3 MR. GOULD 6-28, 30-38</p> <p>4 MR. PETRO 28-29</p> <p>5</p> <p>6 EXHIBITS:</p> <p>7 (No exhibits were</p> <p>8 submitted to said deposition.)</p> <p>9</p> <p>10 Reporter's Certificate 39</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 *****</p> <p>22</p> <p>23</p>   |
| <p style="text-align: right;">3</p> <p>1 the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3 IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4 MR. P. MARK PETRO</p> <p>5 SCHREIBER &amp; PETRO, PC</p> <p>6 ATTORNEYS AT LAW</p> <p>7 Two Metroplex Drive</p> <p>8 Suite 250</p> <p>9 Birmingham, Alabama 35209</p> <p>10 (205) 871-5080</p> <p>11</p> <p>12 ON BEHALF OF THE DEFENDANT:</p> <p>13 MR. MALCOLM S. GOULD</p> <p>14 PELINO &amp; LENTZ</p> <p>15 ATTORNEYS AT LAW</p> <p>16 One Liberty Place</p> <p>17 Thirty-Second Floor</p> <p>18 Philadelphia, Pennsylvania 19103</p> <p>19 (215) 665-1540</p> <p>20</p> <p>21 *****</p> <p>22</p> <p>23</p> |

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified<br/> 2 Court Reporter of Eufaula, Alabama, acting as<br/> 3 Commissioner, certify that on this date, as<br/> 4 provided by the Alabama Rules of Civil Procedure<br/> 5 and the foregoing stipulation of counsel, there<br/> 6 came before me at the Law Offices of WILLIAMS,<br/> 7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange<br/> 8 Avenue, Eufaula, Alabama 36027, beginning at<br/> 9 3:40 p.m., LARRY THOMAS, JR., witness in the above<br/> 10 cause, for oral examination, whereupon the<br/> 11 following proceedings were had:<br/> 12<br/> 13 LARRY THOMAS, JR.,<br/> 14 being first duly sworn, was examined and<br/> 15 testified as follows:<br/> 16<br/> 17 THE COURT REPORTER: Usual<br/> 18 stipulations?<br/> 19 MR. PETRO: Yes.<br/> 20 MR. GOULD: Yes.<br/> 21<br/> 22 EXAMINATION<br/> 23 BY MR. GOULD:</p>   | <p style="text-align: right;">8</p> <p>1 my question, just let me know. I'll either repeat<br/> 2 the question or I'll ask the question in a<br/> 3 different way.<br/> 4 If you feel you need to take a break during<br/> 5 the deposition, just let me know.<br/> 6 If you do answer my question, I'm going to<br/> 7 assume that you understood the question and that<br/> 8 you're answering that question truthfully and to<br/> 9 the best of your ability. Okay?<br/> 10 A. All right.<br/> 11 Q. Sir, can you please state your full name?<br/> 12 A. Larry Jerome Thomas, Jr.<br/> 13 Q. And, Mr. Thomas, are you currently employed?<br/> 14 A. Yes.<br/> 15 Q. And where do you work?<br/> 16 A. Keystone Equity Group Eufaula.<br/> 17 Q. And how long have you worked there?<br/> 18 A. Two years and three months.<br/> 19 Q. And what is your home address?<br/> 20 A. 14 Mary Person Road, Midway, Alabama.<br/> 21 Q. And what current position do you work in at<br/> 22 Equity Group?<br/> 23 A. Well, I'm in QA now. I was a bone sampler</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Mr. Thomas.<br/> 2 A. Good afternoon.<br/> 3 Q. My name is Malcolm Gould. I'm an attorney<br/> 4 with the law firm of Pelino &amp; Lentz in<br/> 5 Philadelphia. I'm here to take your deposition<br/> 6 today in a lawsuit that's been filed in Federal<br/> 7 Court in the Middle District of Alabama.<br/> 8 As you can see, we have a court reporter<br/> 9 here. She's going to take down my questions and<br/> 10 your answers. I would ask that you keep all of<br/> 11 your answers verbal, that you say yes or no<br/> 12 instead of nodding your head or shaking your head.<br/> 13 That way she can take down your answers.<br/> 14 I would also ask that you wait until I<br/> 15 finish my question before you give your answer.<br/> 16 That way we're not talking over each other and<br/> 17 you'll hear my whole question before you answer<br/> 18 it.<br/> 19 I'd also ask that you say yes or no instead<br/> 20 of saying uh-huh or huh-uh. That way we're sure<br/> 21 that the court reporter gets down your answer to<br/> 22 the question.<br/> 23 If I ask a question and you don't understand</p> | <p style="text-align: right;">9</p> <p>1 for a year.<br/> 2 Q. So how long have you worked in QA?<br/> 3 A. A year and three months.<br/> 4 Q. And you were a bone sampler for a year<br/> 5 before that?<br/> 6 A. Yes, sir.<br/> 7 Q. And in your job in QA, do you have an<br/> 8 understanding as to how you are paid? Are you<br/> 9 paid from clock-in to clock-out?<br/> 10 A. Yes, sir.<br/> 11 Q. So that's different from how you were paid<br/> 12 when you were a bone sampler?<br/> 13 A. Yes, sir.<br/> 14 Q. So the questions I'm going to ask today are<br/> 15 just going to be about when you were a bone<br/> 16 sampler. Okay?<br/> 17 A. Okay.<br/> 18 Q. Now, bone sampler, that's on the debone<br/> 19 line; is that correct?<br/> 20 A. Yes, sir. End of the line.<br/> 21 Q. And did you work day shift or night shift?<br/> 22 A. Day shift.<br/> 23 Q. Mr. Thomas, how did you first learn about</p>  |

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| <p style="text-align: right;">10</p> <p>1 this lawsuit?</p> <p>2 A. Through friends. Somebody told me to call</p> <p>3 the number, and I called it.</p> <p>4 Q. Someone at the plant?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall who it was?</p> <p>7 A. Serenda Lampley.</p> <p>8 Q. And what did she tell you?</p> <p>9 A. They was already talking about the lawsuit.</p> <p>10 She told me to call the number. They were getting</p> <p>11 a lawsuit against the chicken plant about the</p> <p>12 breaks and things.</p> <p>13 Q. Are you a member of the union, sir?</p> <p>14 A. No, sir.</p> <p>15 Q. Have you ever been a member of the union?</p> <p>16 A. No.</p> <p>17 Q. Have you ever attended any union meetings?</p> <p>18 A. No, sir.</p> <p>19 Q. What is your understanding as to what this</p> <p>20 lawsuit is about?</p> <p>21 A. To get paid for all the hours worked from</p> <p>22 the beginning of the shift to the end.</p> <p>23 Q. And for you in particular, are you claiming</p>   | <p style="text-align: right;">12</p> <p>1 And at the end of the day, you have to wait</p> <p>2 'til after all the pieces of meat go down the</p> <p>3 belt. Then you can go.</p> <p>4 Q. So part of your claim is for time that you</p> <p>5 spent putting on or taking off items of clothing</p> <p>6 or equipment?</p> <p>7 A. Yes.</p> <p>8 Q. And do you have any other claims in addition</p> <p>9 to that?</p> <p>10 MR. PETRO: Object to the form. You</p> <p>11 can answer if you want to. It's really a legal</p> <p>12 question.</p> <p>13 Q. Is it your understanding that you have any</p> <p>14 other claims in addition to claims for time spent</p> <p>15 putting on and taking off clothing or equipment?</p> <p>16 A. No. If somebody steals your stuff, you have</p> <p>17 to buy it all over. The third time, you get wrote</p> <p>18 up for that.</p> <p>19 Q. All right, sir. When you worked as a bone</p> <p>20 sampler, did you have any items of clothing or</p> <p>21 equipment that you would have to wear when you</p> <p>22 were out on the production floor?</p> <p>23 A. Equipment. You've got to wear your hair</p> |
| <p style="text-align: right;">11</p> <p>1 that while working in QA you weren't paid for work</p> <p>2 that you did?</p> <p>3 A. Bone sampler.</p> <p>4 Q. So only as a bone sampler?</p> <p>5 A. Yes.</p> <p>6 Q. You don't have any claim for the time that</p> <p>7 you have been working in QA?</p> <p>8 A. No, sir.</p> <p>9 Q. Can you give me some examples of hours that</p> <p>10 you claim you have not been paid for?</p> <p>11 A. Like, when you come in in the morning, you</p> <p>12 have to be on the floor. The shift starts at</p> <p>13 7:30, but you have to be there before 7:30 to</p> <p>14 sanitize and put on your hair net, and you've got</p> <p>15 to get your paperwork and stuff, and you have to</p> <p>16 know what line you be on.</p> <p>17 You have to put on all the equipment and</p> <p>18 make sure it's on, because you get up wrote up if</p> <p>19 you don't. You have to put on the equipment and</p> <p>20 sanitize it. Sometimes you have to wait in line</p> <p>21 to sanitize, so it takes longer. Then you have to</p> <p>22 wash. Then you have to be on the line before the</p> <p>23 chicken reaches your workstation.</p> | <p style="text-align: right;">13</p> <p>1 nets, your beard nets, your earplugs, a smock,</p> <p>2 your apron, and your sleeves, your cotton liners,</p> <p>3 and your blue gloves, your boots. And that's</p> <p>4 about it. And some warm clothing. You better</p> <p>5 wear some warm clothing.</p> <p>6 Q. When you say "warm clothing," that's not</p> <p>7 company issued?</p> <p>8 A. Right.</p> <p>9 Q. That's just whatever you would wear from</p> <p>10 home?</p> <p>11 A. Yes, sir.</p> <p>12 Q. During the time you've worked at the plant</p> <p>13 have you been able to wear your boots from home?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Are there any other --</p> <p>16 A. Boots from home? You have to wear the</p> <p>17 company boots.</p> <p>18 Q. Right. I understand. You can wear the</p> <p>19 company boots home from work; is that correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And you can wear them from home to work?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Are there any other items of this clothing</p>  |

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| <p style="text-align: right;">14</p> <p>1 or equipment that you can wear from home to the</p> <p>2 plant?</p> <p>3 A. No, sir. You can't wear nothing but your</p> <p>4 boots.</p> <p>5 Q. Do you normally drive yourself to work?</p> <p>6 A. Yes, sir.</p> <p>7 Q. When you arrive at the plant do you have to</p> <p>8 clear any security?</p> <p>9 A. Well, if you drive another car, a vehicle</p> <p>10 without a sticker on it, they have to check out</p> <p>11 all the people that ride with you, and get your</p> <p>12 tag too, have to write that down. You get a</p> <p>13 sticker and then go on to the plant.</p> <p>14 Q. Do you have a sticker on your car?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And as long as you have that sticker, you</p> <p>17 can drive right through?</p> <p>18 A. Yes, sir.</p> <p>19 Q. After you park in the parking lot, is there</p> <p>20 any other security that you have to go through?</p> <p>21 A. No, sir.</p> <p>22 Q. You can just walk right into the plant?</p> <p>23 A. Yes, sir.</p>  | <p style="text-align: right;">16</p> <p>1 chicken to see if there are any pieces of bone in</p> <p>2 the chicken; is that correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And you use the clock to see at what time</p> <p>5 you checked the chicken?</p> <p>6 A. Yes, sir.</p> <p>7 Q. So they have an idea as to what time that</p> <p>8 sample was taken?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And you said you have to pick up numbers; is</p> <p>11 that correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. What do you use the numbers for?</p> <p>14 A. Let supervisors know how many bones you</p> <p>15 have. You have a number 1, 2, 3, 4, and hold.</p> <p>16 Q. And you said after you picked up those items</p> <p>17 at the QA office, then you'll go to the supply</p> <p>18 room?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Are there certain items that you have to get</p> <p>21 every day?</p> <p>22 A. Another pair of cotton liners, get blue</p> <p>23 gloves; and your hair net, because they get holes</p> |
| <p style="text-align: right;">15</p> <p>1 Q. After you arrive at the plant and you go to</p> <p>2 enter the building, what's the first thing that</p> <p>3 you normally do?</p> <p>4 A. I go clock in first. Then I go to the QA</p> <p>5 office and get your supplies: your clipboard and</p> <p>6 the paperwork, your numbers, all that.</p> <p>7 Q. And that's what you would do as a bone</p> <p>8 sampler?</p> <p>9 A. Yes, sir. Then you go buy your supplies,</p> <p>10 all the supplies needed.</p> <p>11 Q. Where would you normally clock in?</p> <p>12 A. At evis break room.</p> <p>13 Q. And then you said you would go to the QA</p> <p>14 office?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Were there items that you had to pick up as</p> <p>17 a bone sampler?</p> <p>18 A. Clipboard and numbers. And you had to sign</p> <p>19 out your stopwatch and all that.</p> <p>20 Q. And what did you need the stopwatch for?</p> <p>21 A. To write the times. When you check the</p> <p>22 birds, you have to write the time down.</p> <p>23 Q. And as a bone sampler you're checking</p> | <p style="text-align: right;">17</p> <p>1 in it; and your beard net, they tear up; and the</p> <p>2 apron, it smells bad, you know.</p> <p>3 Q. Do you have to replace those every day?</p> <p>4 A. The hair net I do. And the cotton liners.</p> <p>5 Q. Do you have to get a smock every day?</p> <p>6 A. Oh, the white smock, yes, sir.</p> <p>7 Q. What about your apron? Can you use that for</p> <p>8 more than one day?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And your rubber gloves, can you use those</p> <p>11 for more than one day?</p> <p>12 A. Yes, sir.</p> <p>13 Q. After you have picked up your supplies, what</p> <p>14 do you do next?</p> <p>15 A. Go on the floor.</p> <p>16 Q. What time as a bone sampler did your shift</p> <p>17 start?</p> <p>18 A. 7:30.</p> <p>19 Q. What time do you normally arrive at the</p> <p>20 plant?</p> <p>21 A. Like seven o'clock.</p> <p>22 Q. And what time do you normally go out onto</p> <p>23 the floor?</p>  |

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| <p style="text-align: right;">18</p> <p>1 A. About 7:25.</p> <p>2 Q. Can you describe for me what you would do</p> <p>3 once you got to the double doors to the production</p> <p>4 area to go in? Can you describe what you would do</p> <p>5 at the beginning of your shift?</p> <p>6 A. I put on my hair net and earplugs and beard</p> <p>7 net before walking into the production area. Then</p> <p>8 you have to go to the rack where you put your</p> <p>9 clothes on, your smock, your apron, your sleeves,</p> <p>10 your cotton liners, your blue gloves. And you get</p> <p>11 sanitized after that. Then you go to the line and</p> <p>12 put your numbers up.</p> <p>13 Q. When you said you had to sanitize, can you</p> <p>14 explain what you were doing?</p> <p>15 A. Put soap on your hands and wash them. But</p> <p>16 you have to wait in line sometimes.</p> <p>17 Q. And as a bone sampler, what time did you</p> <p>18 have to be on the line at the start of your shift?</p> <p>19 A. You had to be there -- well, sometimes they</p> <p>20 start before 7:30. The chicken come down before</p> <p>21 that. So we have to be on line before the first</p> <p>22 piece of breast meat reaches our area.</p> <p>23 Q. So you would be considered late if you</p> | <p style="text-align: right;">20</p> <p>1 Q. And which debone line did you work on?</p> <p>2 A. We had like a new line every week.</p> <p>3 Q. So you would switch lines every week?</p> <p>4 A. Yes, sir.</p> <p>5 Q. So you would have a chance to work on all</p> <p>6 the lines?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Did you ever time yourself with your</p> <p>9 stopwatch to see how long it was taking you to put</p> <p>10 your items of clothing or equipment on?</p> <p>11 A. No, sir.</p> <p>12 Q. Did you ever time yourself to see how long</p> <p>13 it would take you to wash or sanitize?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you get any breaks during the course of</p> <p>16 your shift?</p> <p>17 A. We get two 30-minute breaks.</p> <p>18 Q. And would those normally occur at the same</p> <p>19 time every day?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And what time were your breaks?</p> <p>22 A. 10:15 through 10:45.</p> <p>23 Q. And when was your second one?</p>  |
| <p style="text-align: right;">19</p> <p>1 weren't at your position before the first piece of</p> <p>2 breast meat reached your area?</p> <p>3 A. Yes, sir. Written up.</p> <p>4 Q. So if you weren't on the line when the first</p> <p>5 bird was placed on the first cone, you wouldn't be</p> <p>6 considered late then?</p> <p>7 A. No, sir.</p> <p>8 Q. Just as long as you are at your position on</p> <p>9 the line when that first --</p> <p>10 A. Yes, sir.</p> <p>11 Q. Approximately how long would it take you</p> <p>12 from the time you entered the production area</p> <p>13 through the double doors to the time you got to</p> <p>14 your spot on the line?</p> <p>15 A. Five minutes.</p> <p>16 Q. And how long would it take you to just put</p> <p>17 on your items of clothing or equipment on the</p> <p>18 production floor?</p> <p>19 A. Like three.</p> <p>20 Q. And how much time would you spend cleaning</p> <p>21 or washing or sanitizing?</p> <p>22 A. That depends on if there's somebody at the</p> <p>23 sink before me.</p>  | <p style="text-align: right;">21</p> <p>1 A. 1:15 to 1:45.</p> <p>2 Q. In your position as a bone sampler, how</p> <p>3 would you know when you were cleared to leave for</p> <p>4 break?</p> <p>5 A. When the last piece of meat falls in the</p> <p>6 combo.</p> <p>7 Q. So when that last piece of meat passes your</p> <p>8 position, then you are free to go?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And can you describe for me -- can you</p> <p>11 describe for me what you would do after you were</p> <p>12 cleared to leave for break?</p> <p>13 A. You have to clean out your pan first, then</p> <p>14 you flip that over. Your clipboard, you tie it up</p> <p>15 in a bag. And then you can leave. Take off your</p> <p>16 smock -- sanitize first. Then take off your smock</p> <p>17 and apron, and you walk out the door.</p> <p>18 Q. When you say you would sanitize before</p> <p>19 leaving for break, can you describe what that was?</p> <p>20 A. Put soap in your hand, wash your hands and</p> <p>21 your apron off.</p> <p>22 Q. And then after you did that, you would take</p> <p>23 off some of your clothing or equipment?</p> |



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| <p style="text-align: right;">22</p> <p>1 A. Take off your equipment. Take off your<br/>2 smock, apron, sleeves and gloves, and your cotton<br/>3 liners.<br/>4 Q. What items could you still wear outside of<br/>5 the production area?<br/>6 A. Your hair net, beard net, and earplugs.<br/>7 Q. And your boots?<br/>8 A. Yes, sir.<br/>9 Q. But you would take everything else off?<br/>10 A. Yes, sir.<br/>11 Q. And after you would exit the production<br/>12 doors what would you do next?<br/>13 A. I would take off my hair net and beard net<br/>14 and earplugs, and keep on the boots.<br/>15 Q. Would you go to a break room?<br/>16 A. Yes, sir.<br/>17 Q. And what would you do when you got into the<br/>18 break room?<br/>19 A. Buy snacks, warm up food.<br/>20 Q. So you would get something to eat or drink?<br/>21 A. Yes, sir.<br/>22 Q. Would you socialize with your coworkers?<br/>23 A. Yes, sir, after I eat. Because I've got to</p>  | <p style="text-align: right;">24</p> <p>1 understanding as to when you would be considered<br/>2 late returning from break?<br/>3 A. Say that again.<br/>4 Q. What's your understanding as to when you<br/>5 would be considered late returning from break?<br/>6 A. You would be late if the meat passes your<br/>7 work area without you being there; you would be<br/>8 late.<br/>9 Q. Okay. Approximately how much time would it<br/>10 take you from the time you passed through the<br/>11 production doors to the time you go to your spot<br/>12 on the line when you were returning from break?<br/>13 A. Five minutes.<br/>14 Q. Did you ever time that?<br/>15 A. No, sir.<br/>16 Q. And would that be the same then for<br/>17 returning from your second break?<br/>18 A. Yes, sir.<br/>19 Q. The same things you would do?<br/>20 A. Yes, sir.<br/>21 Q. And it would take about the same amount of<br/>22 time?<br/>23 A. Yes, sir.</p>   |
| <p style="text-align: right;">23</p> <p>1 eat first.<br/>2 Q. Approximately how long would you be in the<br/>3 break room?<br/>4 A. Be in there about 30 minutes.<br/>5 Q. And how would you know when it was time to<br/>6 return from break?<br/>7 A. You would look at the clock, make sure<br/>8 you've got enough time to put on all of your<br/>9 equipment.<br/>10 Q. What time would you normally leave the break<br/>11 room?<br/>12 A. Leave at 10:40, the first break.<br/>13 Q. Right. Can you describe for me what you<br/>14 would do after you left the break room on your way<br/>15 back onto the floor to your position on the line?<br/>16 A. Throw my food away, put on my hair net,<br/>17 beard net, my earplugs; go back on the floor.<br/>18 When I got on the floor, put back on your smock<br/>19 and apron, your cotton liners and your sleeves and<br/>20 your blue gloves; then I would sanitize. I would<br/>21 put stuff on my hands, wash my hands and apron<br/>22 off. Then I would head back to my work area.<br/>23 Q. And when would you be -- what is your</p> | <p style="text-align: right;">25</p> <p>1 Q. And how would you know that you were<br/>2 released at the end of your shift?<br/>3 A. When the last piece of meat rolls down your<br/>4 belt, falls into the combo.<br/>5 Q. And can you describe for me what you would<br/>6 do at the end of your shift when you were released<br/>7 to leave until the time that you left the<br/>8 production area?<br/>9 A. Well, I'd add how many tickets I got within<br/>10 the hour; wash my pan out, flip it over; get all<br/>11 my paperwork, put it in the clipboard, take it to<br/>12 the office.<br/>13 Well, first you have to take off your smock,<br/>14 apron, sleeves, cotton liners, and blue gloves.<br/>15 You have to sanitize that before you take it off.<br/>16 Then you take it off and go clock out. Well, you<br/>17 have to wait in line to clock out.<br/>18 Q. So you would leave the line and you would go<br/>19 to a sink; is that correct?<br/>20 A. Yes.<br/>21 Q. And you said you would wash off your items<br/>22 again?<br/>23 A. Yes, sir.</p> |

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| <p style="text-align: right;">26</p> <p>1 Q. And take them off?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Is there anything that you would still be</p> <p>4 wearing when you were leaving the production</p> <p>5 floor?</p> <p>6 A. Hair net, beard net, and earplugs.</p> <p>7 Q. And your boots?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And I think you said you had to drop</p> <p>10 something off?</p> <p>11 A. Drop your paperwork off into the office.</p> <p>12 Q. Would you do that before you left the</p> <p>13 production area or after you left the production</p> <p>14 area?</p> <p>15 A. After.</p> <p>16 Q. Take it to QA?</p> <p>17 A. Right.</p> <p>18 Q. You would take it to the QA office?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Is that out in the hallway?</p> <p>21 A. It's in the office; it's in a little room.</p> <p>22 Q. Right. That's off of the hallway outside of</p> <p>23 the production area?</p>   | <p style="text-align: right;">28</p> <p>1 were paid started?</p> <p>2 A. 7:30 to 4:30.</p> <p>3 Q. And so what is your understanding as to when</p> <p>4 the time for which you were paid ended?</p> <p>5 A. You get paid 7:30 to 4:30.</p> <p>6 Q. I think those are all the questions I have</p> <p>7 for you, sir.</p> <p>8 BY MR. PETRO:</p> <p>9 Q. I've got a question, Larry, just to make</p> <p>10 sure that the record's clear.</p> <p>11 Several times you were asked about</p> <p>12 sanitizing your equipment, and you said you were</p> <p>13 sanitizing your hands. What you were really doing</p> <p>14 was sanitizing the gloves you were wearing?</p> <p>15 A. Yes, sir.</p> <p>16 MR. PETRO: Let's take one break. I</p> <p>17 just want to clarify something. I think you said</p> <p>18 something about this QA is not part of the</p> <p>19 lawsuit?</p> <p>20 MR. GOULD: I didn't say it was not</p> <p>21 part of the lawsuit. I believe it's probably</p> <p>22 outside because they are paid differently.</p> <p>23 MR. PETRO: Okay. Come on; let me ask</p>   |
| <p style="text-align: right;">27</p> <p>1 A. Yes, sir.</p> <p>2 Q. And then after that, you would clock out?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Would you do something with your smock?</p> <p>5 A. I'd throw it in the little basket thing</p> <p>6 they've got outside.</p> <p>7 Q. There's a bin by the break room?</p> <p>8 A. Yes, sir.</p> <p>9 Q. On your way to clock out, you could drop it</p> <p>10 there?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Approximately how long would it take you</p> <p>13 from the time you left your spot on the line until</p> <p>14 the time you exited the production floor?</p> <p>15 A. Take, like, seven minutes, because you've</p> <p>16 got to get your paperwork and stuff together.</p> <p>17 Q. What time would you normally clock out?</p> <p>18 A. Clock out, like, 4:32. If the line be long,</p> <p>19 it might take me longer than that, like four</p> <p>20 minutes.</p> <p>21 Q. Okay. Now, during the time that you were</p> <p>22 working as a bone sampler, what is your</p> <p>23 understanding as to when the time for which you</p> | <p style="text-align: right;">29</p> <p>1 you something.</p> <p>2 (A brief recess was taken.)</p> <p>3 MR. PETRO: I don't have any questions.</p> <p>4 But just for the record, there was some discussion</p> <p>5 about him being in the QA department and whether</p> <p>6 or not he's entitled to make a claim for donning</p> <p>7 and doffing. And I'm just saying we're not</p> <p>8 agreeing with you. Whether or not you want to ask</p> <p>9 him is up to you.</p> <p>10 MR. GOULD: Okay. Well, I asked him</p> <p>11 what his understanding of the positions for which</p> <p>12 he was seeking to assert claims in this lawsuit</p> <p>13 were, and he said only for the time he was a bone</p> <p>14 sampler.</p> <p>15 MR. PETRO: Okay. Well, he's not a</p> <p>16 lawyer, so I guess...</p> <p>17 MR. GOULD: He should still,</p> <p>18 nonetheless, have an idea as to the positions for</p> <p>19 which he's asserting a claim.</p> <p>20 MR. PETRO: Okay. I thought you were</p> <p>21 the one that was brushing it off saying that he</p> <p>22 was not entitled to it.</p> <p>23 I just wanted to make sure that you know</p> |



|  |   |
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| <p style="text-align: right;">30</p> <p>1 that we are asserting a claim for donning and</p> <p>2 doffing with respect to his QA position.</p> <p>3 MR. GOULD: So you're saying that</p> <p>4 despite his statement that he is not asserting a</p> <p>5 claim for the period of time that he's working in</p> <p>6 QA, despite that admission, you're claiming that</p> <p>7 you still are?</p> <p>8 MR. PETRO: Right.</p> <p>9 MR. GOULD: Well, then we are going to</p> <p>10 ask more questions.</p> <p>11 MR. PETRO: Okay.</p> <p>12 BY MR. GOULD:</p> <p>13 Q. Mr. Thomas, I asked you earlier as to the</p> <p>14 positions for which you were seeking to recover in</p> <p>15 this lawsuit. You indicated to me that you were</p> <p>16 seeking to recover money for the time that you</p> <p>17 served as a bone sampler in debone; is that</p> <p>18 correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And maybe I misunderstood you, but I thought</p> <p>21 you told me that that was the only period of your</p> <p>22 employment with the company for which you were</p> <p>23 seeking to recover money; is that correct?</p> | <p style="text-align: right;">32</p> <p>1 A. Yes, sir.</p> <p>2 Q. And can you explain to me why you have to be</p> <p>3 on the floor to watch other people come onto the</p> <p>4 floor?</p> <p>5 A. Make sure they have their hair nets on</p> <p>6 properly, make sure your hair not showing; make</p> <p>7 sure your hood's not outside of the smock; if your</p> <p>8 hood out, you have to put a hair net over the</p> <p>9 hood; and make sure they're not chewing gum before</p> <p>10 they come in the production area.</p> <p>11 Q. Now, as a worker in QA, do you have an</p> <p>12 understanding as to when the time for which you</p> <p>13 are paid starts?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And what's that?</p> <p>16 A. 7:30 to 4:30.</p> <p>17 Q. Now, when I asked you earlier, you told me</p> <p>18 that you were paid from, the time you clocked in</p> <p>19 until the time you clocked out; is that correct,</p> <p>20 for when you were working in QA?</p> <p>21 A. I sure did. Yes, sir, I said that.</p> <p>22 Q. Is that correct or incorrect?</p> <p>23 A. Incorrect.</p> |
| <p style="text-align: right;">31</p> <p>1 A. Yes, sir.</p> <p>2 Q. Is that what you said to me?</p> <p>3 A. Yes, sir.</p> <p>4 Q. All right. Now that you have had an</p> <p>5 opportunity to review that issue, has that answer</p> <p>6 changed?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So now you are also claiming that you should</p> <p>9 be compensated in this lawsuit for activities done</p> <p>10 while you were working in a QA position?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Can you describe for me what it is that you</p> <p>13 believe you are claiming in connection with your</p> <p>14 work in the QA department?</p> <p>15 A. The time being on the floor.</p> <p>16 Q. Can you describe for me what it is you mean</p> <p>17 by that?</p> <p>18 A. We're supposed to be on the floor to watch</p> <p>19 everybody else come in, before everybody else get</p> <p>20 in there.</p> <p>21 Q. So you're supposed to be on the floor to</p> <p>22 watch other people come out onto the production</p> <p>23 floor?</p>  | <p style="text-align: right;">33</p> <p>1 Q. So for the time that you work in QA, when</p> <p>2 does the time that you are paid start?</p> <p>3 A. 7:30 to 4:30.</p> <p>4 Q. And in connection with your work -- let me</p> <p>5 back up.</p> <p>6 Can you describe for me what it is you do in</p> <p>7 your job as working in QA?</p> <p>8 A. I do rework. Whatever goes on hold, have to</p> <p>9 rework it and take it off and make sure it's</p> <p>10 right.</p> <p>11 Q. So you do rework?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And I think you also told me that you are</p> <p>14 out on the floor watching other people as they</p> <p>15 come onto the floor?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And in doing rework, do you work with a</p> <p>18 knife or scissors?</p> <p>19 A. No, sir.</p> <p>20 Q. In your position in QA, are you aware</p> <p>21 whether or not you get any time added on to your</p> <p>22 shift at the beginning or at the end?</p> <p>23 A. No, sir.</p>  |

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| <p style="text-align: right;">34</p> <p>1 Q. In other words, what I'm asking you is: Do<br/>2 you get paid any extra money beyond 7:30 to 4:30?<br/>3 A. No, sir.<br/>4 Q. You got paid today; is that correct?<br/>5 A. Yes, sir.<br/>6 Q. You got a paycheck today?<br/>7 A. Yes, sir.<br/>8 Q. It listed on there how many hours for which<br/>9 you were paid?<br/>10 A. Yes, sir.<br/>11 Q. And how many hours were you paid for in this<br/>12 paycheck?<br/>13 A. Well, this paycheck we worked last Saturday.<br/>14 You know, you get overtime on Saturdays.<br/>15 Q. And how long did you work on Saturday?<br/>16 A. I worked the whole day, I think.<br/>17 Q. And how many hours were your paid for on<br/>18 your last paycheck, the one that you just got<br/>19 today?<br/>20 A. 48 hours, I think.<br/>21 Q. And were any of those hours paid at<br/>22 overtime?<br/>23 A. Yes, sir.</p> | <p style="text-align: right;">36</p> <p>1 Q. And the routine that you would do at the<br/>2 beginning of the day in terms of going out on the<br/>3 production floor, was that the same?<br/>4 A. Yes, sir.<br/>5 Q. At what time would you normally go out on<br/>6 the production floor in your position in QA?<br/>7 A. They tell us to try to make it out before<br/>8 7:24 so we can see everybody walk in.<br/>9 Q. So is that what time you want to be out on<br/>10 the floor, or is that what time you leave to go<br/>11 out onto the floor?<br/>12 A. That's what time we have to be out there.<br/>13 Q. What time do you normally leave to go out<br/>14 onto the production floor?<br/>15 A. 7:22, something like that.<br/>16 Q. So you'd leave around 7:22; and then by 7:24<br/>17 you're normally in your equipment and out on the<br/>18 floor?<br/>19 A. I'd be out on the floor, but not in my<br/>20 equipment yet.<br/>21 Q. I just want to make sure I understand what<br/>22 you're saying correctly.<br/>23 You would normally head out to the floor</p> |
| <p style="text-align: right;">35</p> <p>1 Q. Eight hours were paid at overtime?<br/>2 A. Yes, sir.<br/>3 Q. And that's for the eight hours you worked on<br/>4 Saturday?<br/>5 A. Yes, sir.<br/>6 Q. In your position in QA, what time do you<br/>7 normally report to the plant?<br/>8 A. Seven o'clock.<br/>9 Q. Now, the items of clothing or equipment you<br/>10 would wear, were they any different than what you<br/>11 would wear when you were working as a bone<br/>12 sampler?<br/>13 A. No, sir.<br/>14 Q. Same things?<br/>15 A. Same things.<br/>16 Q. And your routine that you would do in the<br/>17 morning when you arrived at the plant --<br/>18 A. Same thing.<br/>19 Q. It was the same thing? Did you have to pick<br/>20 up any paperwork?<br/>21 A. Yes, sir. Clipboard and pen and all that.<br/>22 Q. And you still get that at the QA office?<br/>23 A. Yes, sir.</p>          | <p style="text-align: right;">37</p> <p>1 around 7:22?<br/>2 A. Yes, sir.<br/>3 Q. And at what point in time are you in your<br/>4 equipment and clothing and able to watch everybody<br/>5 else?<br/>6 A. 7:26.<br/>7 Q. And in terms of this function of watching<br/>8 people when they come out onto the floor, do you<br/>9 also do that before and after breaks?<br/>10 A. Yes, sir.<br/>11 Q. Before breaks or just after breaks?<br/>12 A. After breaks.<br/>13 Q. You don't have to watch them before they go<br/>14 out on break?<br/>15 A. No, sir.<br/>16 Q. And do you have to do anything in terms of<br/>17 watching people at the end of the shift?<br/>18 A. No, sir. Because the other set of QAs come<br/>19 in.<br/>20 Q. And they'll watch the people who are coming<br/>21 on for second shift?<br/>22 A. Yes, sir.<br/>23 Q. And in terms of what you would do at the end</p>   |

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1 of your shift in QA, is it any different than what  
 2 you would do at the end of your shift when you  
 3 were a bone sampler?  
 4 A. Get all my equipment together. Well, you'll  
 5 wash off your apron and stuff, pull off your  
 6 cotton liners and all that, sanitize it, wash your  
 7 hands -- wash your gloves, I mean, and take them  
 8 off. And then get your stuff and go. Go out  
 9 there and take your smock off, and then you go to  
 10 the QA office.  
 11 Q. So it's pretty much the same as what you did  
 12 as a bone sampler?  
 13 A. Yes, sir.  
 14 Q. And is it fair to say it would take you the  
 15 same amount of time?  
 16 A. Yes, sir.  
 17 Q. Those are all the questions I have. Thank  
 18 you.

19 MR. PETRO: I don't have anything.

20  
 21 (The deposition was concluded.)  
 22  
 23

39

1 CERTIFICATE

2  
 3 STATE OF ALABAMA  
 4 BARBOUR COUNTY  
 5

6 I hereby certify that the above and  
 7 foregoing deposition was taken down by me in  
 8 stenotype and the questions and answers thereto  
 9 were transcribed by means of computer-aided  
 10 transcription, and that the foregoing represents  
 11 a true and correct transcript of the testimony  
 12 given by said witness upon said hearing.

13 I further certify that I am neither of  
 14 counsel, nor kin to the parties to the action,  
 15 nor am I in anywise interested in the result of  
 16 said cause.  
 17  
 18

19 CYNTHIA M. NOAKES, Commissioner  
 20 Certified Court Reporter,  
 21 ACCR #327 - Expires 09/30/2008  
 22

23 Commission Expires 07/08/2009

**TAB 53**

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

NO.: 2:06-CV-1081-MEF

BETTY ANN BURKS, et al.,

Plaintiff(s),

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant(s).

DEPOSITION OF  
CAROLINE TURNER

JOB NO. 1101-58505

BEFORE: Victoria M. Castillo  
Certified Court Reporter and  
Notary Public  
ACCR# 17, Expires 9/30/2008

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| <p style="text-align: right;">2</p> <p>1 In accordance with Rule 5(d) of</p> <p>2 The Alabama Rules of Civil Procedure, as Amended,</p> <p>3 effective May 15, 1988, I, Victoria M. Castillo, am</p> <p>4 hereby delivering to HOWARD A. ROSENTHAL, ESQ. the</p> <p>5 original transcript of the oral testimony taken on</p> <p>6 the 23rd day of May, 2008, along with exhibits.</p> <p>7 Please be advised that this is</p> <p>8 the same and not retained by the Court Reporter,</p> <p>9 nor filed with the Court.</p> <p>10</p> <p>11 STIPULATION</p> <p>12</p> <p>13 IT IS STIPULATED AND AGREED, by</p> <p>14 and between the parties through their respective</p> <p>15 counsel, that the deposition of CAROLINE TURNER may</p> <p>16 be taken before Victoria M. Castillo, Commissioner,</p> <p>17 at WILLIAMS, POTTHOFF, WILLIAMS &amp; SMITH, 125 South</p> <p>18 Orange Avenue, Eufaula, Alabama 36027 on the 23rd</p> <p>19 day of May, 2008.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the signature to and the reading of the</p> <p>22 deposition by the witness is waived, the deposition</p> <p>23 is said to have the same force and effect as if</p> | <p style="text-align: right;">4</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NUMBER:</p> <p>4 Mr. Fry 6</p> <p>5 Mr. Steensland 50</p> <p>6</p> <p>7 EXHIBITS: PAGE NUMBER:</p> <p>8 (No Exhibits Were Marked.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1 full compliance had been had with all laws and</p> <p>2 rules of Court relating to the taking of</p> <p>3 depositions.</p> <p>4 IT IS FURTHER STIPULATED AND</p> <p>5 AGREED that it shall not be necessary for any</p> <p>6 objections to be made by counsel to any questions,</p> <p>7 except as to form or leading questions, and that</p> <p>8 counsel for the parties may make objections and</p> <p>9 assign grounds at the time of trial, or at the time</p> <p>10 said deposition is offered in evidence, or prior</p> <p>11 thereto.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that notice of filing of the deposition by</p> <p>14 the Commissioner is waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 M. John Steensland, III, Esq.</p> <p>5 PARKMAN, ADAMS &amp; WHITE</p> <p>6 739 West Main Street</p> <p>7 Dothan, Alabama 36301</p> <p>8</p> <p>9 FOR EQUITY GROUP EUFAULA DIVISION</p> <p>10 Gary D. Fry, Esq.</p> <p>11 Pelino &amp; Lentz</p> <p>12 One Liberty Place</p> <p>13 Thirty-Second Floor</p> <p>14 1650 Market Street</p> <p>15 Philadelphia, Pennsylvania 19103</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19 I, Victoria M. Castillo, a Court</p> <p>20 Reporter of Montgomery, Alabama, acting as</p> <p>21 Commissioner, certify that on this date, as</p> <p>22 provided by the Alabama Rules of Civil Procedure</p> <p>23 and the foregoing stipulation of counsel, there</p> |

## MERRILL LEGAL SOLUTIONS

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| <p style="text-align: right;">6</p> <p>1 came before me at WILLIAMS, POTTHOFF, WILLIAMS &amp;<br/> 2 SMITH, 125 South Orange Avenue, Eufaula, Alabama<br/> 3 36027, commencing at 1:27 p.m., CAROLINE TURNER, in<br/> 4 the above cause, for oral examination, whereupon<br/> 5 the following proceedings were had:<br/> 6<br/> 7 CAROLINE TURNER,<br/> 8 being first duly sworn, was examined and<br/> 9 testified as follows:<br/> 10<br/> 11 EXAMINATION BY MR. FRY:<br/> 12 Q. Good afternoon, Ms. Turner.<br/> 13 A. Good afternoon.<br/> 14 Q. How are you?<br/> 15 A. I'm nervous.<br/> 16 Q. There is nothing to be nervous<br/> 17 about. You can believe me on that. My name is<br/> 18 Gary Fry. I'm one of the lawyers that's<br/> 19 representing Equity Group Eufaula Division, the<br/> 20 folks that operate the plant at Baker Hill. As you<br/> 21 are probably aware, we have asked you to come here<br/> 22 today to put some questions to you concerning the<br/> 23 claims that you and some other folks have made in a</p>  | <p style="text-align: right;">8</p> <p>1 A. 6299 County Road 75.<br/> 2 Q. What town?<br/> 3 A. Clopton.<br/> 4 Q. What state?<br/> 5 A. Well, I drew a blank there.<br/> 6 MR. STEENSLAND: What was the<br/> 7 question?<br/> 8 MR. FRY: What state?<br/> 9 MR. STEENSLAND: What state do<br/> 10 you live in?<br/> 11 A. It's between Abbeville and --<br/> 12 MR. STEENSLAND: Listen to his<br/> 13 question.<br/> 14 Q. (Mr. Fry) What state -- is it in<br/> 15 Alabama or Georgia?<br/> 16 A. Alabama.<br/> 17 Q. What's your date of birth?<br/> 18 A. 6/8/50.<br/> 19 Q. Are you currently employed?<br/> 20 A. Yes, sir.<br/> 21 Q. By whom?<br/> 22 A. Keystone, CP.<br/> 23 Q. Is it okay with you if I refer to</p>  |
| <p style="text-align: right;">7</p> <p>1 lawsuit that has been filed against Equity. Have<br/> 2 you ever gone through this process before?<br/> 3 A. No, sir.<br/> 4 Q. It's pretty simple and painless. I<br/> 5 will be asking the questions and you will be<br/> 6 answering. Victoria, our court reporter, will be<br/> 7 taking down what we say. If you don't understand<br/> 8 one of my questions, it's important that you let me<br/> 9 know that, and I will be able to hopefully rephrase<br/> 10 the question so you will be able to understand it.<br/> 11 If you don't hear anything I say, let me know and I<br/> 12 will repeat it. She can only take down one of us<br/> 13 at a time talking, so we should not talk across<br/> 14 each other. I don't think that will be a problem.<br/> 15 But if you can wait until I get my question out to<br/> 16 answer and I will wait for you to complete your<br/> 17 answer, we will get along great. And the only<br/> 18 other thing I would ask you would be all your<br/> 19 answers should be verbal -- yes and no, or an<br/> 20 explanation -- and no shaking or nodding of the<br/> 21 head or that sort of thing.<br/> 22 A. Okay.<br/> 23 Q. What's your home address?</p> | <p style="text-align: right;">9</p> <p>1 Keystone as Equity?<br/> 2 A. Right, that is fine.<br/> 3 Q. How long have you worked for Equity?<br/> 4 A. The 6th of August will be ten years.<br/> 5 Q. So you have been there since 1998,<br/> 6 August of 1998?<br/> 7 A. Yes, sir.<br/> 8 Q. And you first started when CP had the<br/> 9 place?<br/> 10 A. Yes, sir.<br/> 11 Q. What's your current job at Equity?<br/> 12 A. DSI.<br/> 13 Q. What do you do in the DSI room?<br/> 14 A. We pick up chicken, pick up the good<br/> 15 pieces and throw them on the top belt, and they go<br/> 16 in the combo for McDonald's or for the cook plant.<br/> 17 Q. So where do you pick your pieces up<br/> 18 from?<br/> 19 A. The belt is coming down, and we pick<br/> 20 them up and put them on the top belt. We pick up<br/> 21 the good pieces and put them on the top belt.<br/> 22 Q. Do you screen out the bad product?<br/> 23 A. Uh-huh.</p> |



|   |   |
|---|---|
| <p style="text-align: right;">10</p> <p>1 Q. You have to say yes.</p> <p>2 A. Yes, sir.</p> <p>3 Q. How long have you had that job in</p> <p>4 DSI?</p> <p>5 A. I'm thinking three years.</p> <p>6 Q. What shift do you work?</p> <p>7 A. First shift, day shift.</p> <p>8 Q. What are the hours?</p> <p>9 A. 7:30 to 4:30.</p> <p>10 Q. That's a.m. and p.m.?</p> <p>11 A. Yes.</p> <p>12 Q. Before you went to work in the DSI</p> <p>13 portion of the operation, what did you do?</p> <p>14 A. I picked up chicken. I pick up</p> <p>15 chicken off the floor and carry it to the wash</p> <p>16 station.</p> <p>17 Q. And what department was that?</p> <p>18 A. Debone.</p> <p>19 Q. And did your job have a particular</p> <p>20 title?</p> <p>21 A. Floor person is what they would call</p> <p>22 it.</p> <p>23 Q. How long were you a floor person?</p>   | <p style="text-align: right;">12</p> <p>1 Q. What's your current rate of pay?</p> <p>2 A. \$9.45.</p> <p>3 Q. How long have you been at that rate?</p> <p>4 A. Since March 1st, and we got a raise.</p> <p>5 Q. You work 40 hours a week?</p> <p>6 A. Well, 40 -- we've been working seven</p> <p>7 days a week here lately. But just regular 40</p> <p>8 hours.</p> <p>9 Q. Regular it's generally 40 hours per</p> <p>10 week, Monday through Friday?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And you've been working overtime?</p> <p>13 A. Yes, sir.</p> <p>14 Q. You understand that you are a</p> <p>15 plaintiff or a party in this lawsuit?</p> <p>16 A. Yes, sir.</p> <p>17 Q. How did you find out about the</p> <p>18 lawsuit?</p> <p>19 A. From friends at work.</p> <p>20 Q. What did the friends tell you?</p> <p>21 A. The friend, she gave me a number to</p> <p>22 call and told me what was going on and told me I</p> <p>23 could call that number and get in touch with them,</p>                                     |
| <p style="text-align: right;">11</p> <p>1 A. That's difficult. I was at the wash</p> <p>2 station and like doing both, back and forth, for --</p> <p>3 let's see, I was there -- just give me a minute.</p> <p>4 Q. Take your time.</p> <p>5 A. I would say most of the years I was</p> <p>6 there, except for three years I was in DSI.</p> <p>7 Q. So the last three years you've been</p> <p>8 in DSI?</p> <p>9 A. And the rest --</p> <p>10 Q. And for the prior years you were, as</p> <p>11 you can best recollect back into the CP period, you</p> <p>12 were a floor person or you worked at the wash</p> <p>13 station?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Did you work day shift for all those</p> <p>16 years?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Who is your current supervisor?</p> <p>19 A. Well, Leon is one of the</p> <p>20 supervisors. We have three. So Leon was mainly my</p> <p>21 supervisor.</p> <p>22 Q. Do you know Leon's last name?</p> <p>23 A. Spinks, I think. I'm not sure now.</p> | <p style="text-align: right;">13</p> <p>1 and they would send me some papers through the mail</p> <p>2 to fill out.</p> <p>3 Q. What did your friend tell you about</p> <p>4 the lawsuit?</p> <p>5 A. She just explained that it was for</p> <p>6 the back hours that we worked and didn't get no pay</p> <p>7 that we should have got paid for, and that if I</p> <p>8 wanted to be in with the lawsuit, that to just call</p> <p>9 that number.</p> <p>10 Q. What's your understanding as to your</p> <p>11 claim in this lawsuit?</p> <p>12 A. It's back pay that we should have got</p> <p>13 and we didn't.</p> <p>14 Q. Back pay for doing what?</p> <p>15 A. For work and stuff that we did and we</p> <p>16 didn't get paid.</p> <p>17 Q. What work do you believe you</p> <p>18 performed for which you weren't paid?</p> <p>19 A. Being on the line, being working, and</p> <p>20 we're not getting paid for it.</p> <p>21 Q. Actual production work?</p> <p>22 A. Right.</p> <p>23 Q. Production work on the DSI line?</p> |

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| <p style="text-align: right;">14</p> <p>1 A. Yes, sir.</p> <p>2 Q. Putting the chicken up on the belt?</p> <p>3 A. Yes, sir.</p> <p>4 Q. You believe that you were doing that</p> <p>5 job for hours for which you weren't paid?</p> <p>6 A. Right.</p> <p>7 Q. Have you ever been involved in any</p> <p>8 other lawsuits?</p> <p>9 A. No, sir.</p> <p>10 Q. Are you a member of the Union?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Have you long have you been a member</p> <p>13 of the Union?</p> <p>14 A. I'd say about four years, somewhere</p> <p>15 around there.</p> <p>16 Q. Have you ever had any position with</p> <p>17 the Union, like a steward?</p> <p>18 A. No, sir.</p> <p>19 Q. Have you ever been on a negotiating</p> <p>20 committee?</p> <p>21 A. No, sir.</p> <p>22 Q. Have you ever attended any Union</p> <p>23 meetings?</p>  | <p style="text-align: right;">16</p> <p>1 Q. It's my understanding that when</p> <p>2 you're working in the DSI area of the plant, that</p> <p>3 you wear certain items of outer garments and</p> <p>4 equipment, or PPE; is that correct?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And can you identify for me those</p> <p>7 items that you wear?</p> <p>8 A. Well, it's just equipment, stuff that</p> <p>9 you put on.</p> <p>10 MR. STEENSLAND: Listen to his</p> <p>11 question.</p> <p>12 THE DEPONENT: Okay.</p> <p>13 Q. (Mr. Fry) Can you just list for me</p> <p>14 those items that you put on to do your job?</p> <p>15 A. Smock, apron, gloves, warming gloves,</p> <p>16 hair net, rubber gloves, ear plugs, rubber boots,</p> <p>17 arm sleeves. I think that's it.</p> <p>18 Q. Let me go down the list and make sure</p> <p>19 we have the full list. You told me that you wear a</p> <p>20 smock, an apron, gloves --</p> <p>21 A. Rubber gloves.</p> <p>22 Q. And you wear the white liner gloves</p> <p>23 with them?</p> |
| <p style="text-align: right;">15</p> <p>1 A. No, sir.</p> <p>2 Q. Do you know who the Union</p> <p>3 representatives are in the plant?</p> <p>4 A. I know one.</p> <p>5 Q. Who do you know?</p> <p>6 A. But I don't know her name.</p> <p>7 Q. Have you ever discussed your claim</p> <p>8 for not being paid for production work with any</p> <p>9 Union representative?</p> <p>10 A. No, sir.</p> <p>11 Q. Have you ever attended any meetings</p> <p>12 with your fellow employees concerning this lawsuit</p> <p>13 or your claim?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you review any papers before you</p> <p>16 came here today to prepare yourself?</p> <p>17 A. No, sir.</p> <p>18 Q. Did you talk with anybody about your</p> <p>19 appearance here today besides your lawyers?</p> <p>20 A. Just my work -- just my supervisor</p> <p>21 saying I was coming, you know, where I was going,</p> <p>22 you know, because I had to -- other than that, no,</p> <p>23 sir.</p> | <p style="text-align: right;">17</p> <p>1 A. Yes, sir.</p> <p>2 Q. A hair net?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Ear plugs?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Boots?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And sleeves?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Anything else?</p> <p>11 A. Huh-uh.</p> <p>12 Q. During that period of time that you</p> <p>13 were working at the plant when you were a floor</p> <p>14 person, did you wear these same items?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Which of these items, to your</p> <p>17 understanding, are required?</p> <p>18 A. All of them.</p> <p>19 Q. Does everybody in the debone room</p> <p>20 wear these items?</p> <p>21 A. No, sir.</p> <p>22 Q. Do some employees wear additional</p> <p>23 items depending on their job?</p>   |

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| <p style="text-align: right;">18</p> <p>1 A. Yes, sir.</p> <p>2 Q. Does the company provide you with</p> <p>3 these items that you wear?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Which of the items that you have</p> <p>6 listed for me do you get on a daily basis?</p> <p>7 A. On a daily basis -- we get gloves --</p> <p>8 rubber gloves, and aprons, and warming gloves, and</p> <p>9 hair nets. And that's it.</p> <p>10 Q. What about a smock?</p> <p>11 A. Smock, yes.</p> <p>12 Q. As I understand it, there was a</p> <p>13 period of time in the past when you didn't get a</p> <p>14 smock every day that you were required to, or you</p> <p>15 took your smocks home and washed them yourself; is</p> <p>16 that true?</p> <p>17 A. Yes, sir.</p> <p>18 Q. At some point after Equity took over</p> <p>19 that process changed?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Do you recall when that process</p> <p>22 changed?</p> <p>23 A. When it changed -- it's been a</p>   | <p style="text-align: right;">20</p> <p>1 you have listed for me in the morning after you get</p> <p>2 to work?</p> <p>3 A. I get there at ten minutes after</p> <p>4 seven, and I go get my smock and come back and</p> <p>5 divide everything and put everything that I need in</p> <p>6 my locker, and I take what I'm going to wear, and</p> <p>7 then I put it there. And when we go in, I take it</p> <p>8 in and put it on inside the plant, inside where you</p> <p>9 work.</p> <p>10 Q. So am I correct that you put these</p> <p>11 items on, most of them, on the debone production</p> <p>12 floor?</p> <p>13 A. Yes, sir, except my boots. I put my</p> <p>14 boots on in the break room.</p> <p>15 Q. And do you put your hair net on in</p> <p>16 the break room?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And do you put your ear plugs in in</p> <p>19 the break room?</p> <p>20 A. Yes, sir.</p> <p>21 Q. But everything else you take with you</p> <p>22 into the floor and you put it on there, correct?</p> <p>23 A. Yes, sir, because we are not allowed</p> |
| <p style="text-align: right;">19</p> <p>1 while. I'd say about four or five years. I am</p> <p>2 guessing, but right about that.</p> <p>3 Q. Can you wear any of these items that</p> <p>4 you have listed for me from your home?</p> <p>5 A. No, sir.</p> <p>6 Q. What about your boots?</p> <p>7 A. No, sir.</p> <p>8 Q. You can't wear your boots from home?</p> <p>9 A. You can, but they'd rather you --</p> <p>10 that you didn't. I'd rather not because I'd rather</p> <p>11 have them on clean. But you can put them on in</p> <p>12 your car and go on in with them. That's what they</p> <p>13 usually do.</p> <p>14 Q. Do you have a locker at the plant?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And do you store any of these items</p> <p>17 in the locker when you leave work at the end of the</p> <p>18 day?</p> <p>19 A. No, sir.</p> <p>20 Q. You take the apron and the sleeves</p> <p>21 home with you?</p> <p>22 A. I take everything home and wash it.</p> <p>23 Q. When do you put on these items that</p> | <p style="text-align: right;">21</p> <p>1 to wear it out and back in.</p> <p>2 Q. Your shift starts at 7:30 a.m.?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And how many minutes before that 7:30</p> <p>5 start time do you go into the debone room and put</p> <p>6 on these items that you just identified for me?</p> <p>7 A. It's usually five minutes 'til</p> <p>8 before. Not 7:30, but five minutes 'til.</p> <p>9 Q. You give yourself five minutes to go</p> <p>10 in and put the stuff on?</p> <p>11 A. Well, it takes us five minutes to get</p> <p>12 from up front to our back back there, and then we</p> <p>13 start putting it on.</p> <p>14 Q. So when are you required to be on the</p> <p>15 line?</p> <p>16 A. We are required to be on the line at</p> <p>17 7:30, but I mean I'm not -- well, maybe I shouldn't</p> <p>18 --</p> <p>19 Q. Go ahead. Tell me how it works.</p> <p>20 A. I'm early.</p> <p>21 Q. I want to know how it works.</p> <p>22 A. I'm early, so I get mine on before</p> <p>23 the others. I don't put on mine in the back. I</p>      |

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| <p style="text-align: right;">22</p> <p>1 put on mine in the front.</p> <p>2 Q. When you say "the front", what are</p> <p>3 you referring to?</p> <p>4 A. Like when you go in, there is a sink</p> <p>5 and stuff there. And most of them can put it on</p> <p>6 there and go on back to the back. So then that way</p> <p>7 if you in there and you got your stuff on, they</p> <p>8 consider you not late. So if you are in there and</p> <p>9 can go there and put your stuff on and then you are</p> <p>10 not late.</p> <p>11 Q. When you say "go to the back", you</p> <p>12 mean go to your DSI area?</p> <p>13 A. Work area.</p> <p>14 Q. So you told me that if you put your</p> <p>15 stuff on in the area right when you first go in --</p> <p>16 A. Yes.</p> <p>17 Q. -- and if you get it on there, then</p> <p>18 you say you're not considered late?</p> <p>19 A. No, sir.</p> <p>20 Q. What do you mean by that?</p> <p>21 A. If I go in five minutes before, it</p> <p>22 takes me five minutes to get my stuff on.</p> <p>23 Q. Okay.</p> | <p style="text-align: right;">24</p> <p>1 or implements?</p> <p>2 A. No, sir.</p> <p>3 Q. How many breaks do you get per day?</p> <p>4 A. Two.</p> <p>5 Q. How long are they?</p> <p>6 A. 30 minutes.</p> <p>7 Q. After your 7:30 start time, when is</p> <p>8 the first 30-minute break? What time does it</p> <p>9 occur? When can you take it?</p> <p>10 A. 10:40.</p> <p>11 Q. When is the second 30-minute break?</p> <p>12 A. 1:40.</p> <p>13 Q. Do the DSI folks go on break at the</p> <p>14 same time as the debone lines go on break?</p> <p>15 A. The supervisors or the line leaders?</p> <p>16 Q. No. Let me go back. The DSI folks,</p> <p>17 they go on break at 10:40?</p> <p>18 A. Yes, sir.</p> <p>19 Q. The people that are working in the</p> <p>20 debone and in the room with the lines, do they go</p> <p>21 on break at the same time you do?</p> <p>22 A. No, sir.</p> <p>23 Q. They go before?</p>  |
| <p style="text-align: right;">23</p> <p>1 A. And if I got it on, I'm considered</p> <p>2 not late.</p> <p>3 Q. You are not late?</p> <p>4 A. If you get your stuff on, you are not</p> <p>5 late.</p> <p>6 Q. And you have your stuff on, then it</p> <p>7 takes you a few minutes to go back to the DSI room?</p> <p>8 A. Yes, just a few seconds.</p> <p>9 Q. So if you leave the break room at</p> <p>10 7:25, you have time to do everything and not be</p> <p>11 late for the start of production; is that correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Does your job in DSI require you to</p> <p>14 use a knife?</p> <p>15 A. No, sir.</p> <p>16 Q. When you were a floor person, did</p> <p>17 that job require you to use a knife or scissors?</p> <p>18 A. It did, but I messed up this hand and</p> <p>19 they wouldn't allow me to use scissors or knives.</p> <p>20 Q. You don't use scissors in DSI either,</p> <p>21 do you?</p> <p>22 A. No, sir.</p> <p>23 Q. In your DSI job do you use any tools</p>                                     | <p style="text-align: right;">25</p> <p>1 A. Yes, sir.</p> <p>2 Q. How do you know when it's time for</p> <p>3 you to take your break?</p> <p>4 A. Well, I can't see the clock, so</p> <p>5 when there's no meat coming down, because I can't</p> <p>6 see the clock, I can just tell when it's time.</p> <p>7 Q. You can just tell. After ten years</p> <p>8 you can just tell?</p> <p>9 A. I can just tell.</p> <p>10 Q. And where do you take your break?</p> <p>11 A. In the break room.</p> <p>12 Q. Do you take it in the debone break</p> <p>13 room?</p> <p>14 A. Yes, sir.</p> <p>15 Q. How do you know it's time to go back</p> <p>16 from break to go back to work?</p> <p>17 A. I watch the clock, and I know.</p> <p>18 Q. If your break starts at 10:40, you</p> <p>19 need to be back at ten after eleven?</p> <p>20 A. Yes.</p> <p>21 Q. And what time do you usually leave</p> <p>22 the break room in order to be back on the line?</p> <p>23 A. About 10:40, because we just go to</p> |

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| <p style="text-align: right;">26</p> <p>1 the wash station.</p> <p>2 MR. STEENSLAND: Listen to his</p> <p>3 question.</p> <p>4 Q. (Mr. Fry) Take your time. Just</p> <p>5 listen to my question. You're on break --</p> <p>6 A. Yes, sir.</p> <p>7 Q. You just told me that your break ends</p> <p>8 at 11:10, ten minutes after eleven. Is that when</p> <p>9 it ends?</p> <p>10 A. I'm back on the line at about 10, 20</p> <p>11 minutes after.</p> <p>12 Q. 20 minutes after?</p> <p>13 A. Uh-huh. I'm sorry, but that kind of</p> <p>14 confuses me when I'm going on break.</p> <p>15 MR. STEENSLAND: I think you just</p> <p>16 confused us.</p> <p>17 A. I'm sorry, because we go on break at</p> <p>18 10:40, and it's just like I'm going in there to the</p> <p>19 bathroom and hustling and eating, and then when I</p> <p>20 get through, I just kind of like breathe for a</p> <p>21 little while, and then I get up and go back, and</p> <p>22 I'm not -- and I try not to be late.</p> <p>23 Q. (Mr. Fry) And --</p> | <p style="text-align: right;">28</p> <p>1 Q. That is your recollection?</p> <p>2 A. Uh-huh.</p> <p>3 Q. And you're on time, correct?</p> <p>4 A. Correct.</p> <p>5 Q. How do you get to the plant on the</p> <p>6 workday in the morning?</p> <p>7 A. I drive to work.</p> <p>8 Q. You drive?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Do you have a sticker on your car?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And when you get to the plant, you</p> <p>13 can just drive on, correct?</p> <p>14 A. Correct, yes, sir.</p> <p>15 Q. And at the end of the day, you can</p> <p>16 just drive off?</p> <p>17 A. Correct, yes, sir.</p> <p>18 Q. You don't have to stop and pass</p> <p>19 through any security, do you?</p> <p>20 A. No, sir.</p> <p>21 Q. I think you started to tell me a</p> <p>22 little bit ago what you do after you arrive, but I</p> <p>23 want to go back and go through that in just a</p>  |
| <p style="text-align: right;">27</p> <p>1 A. But usually if we go on break at</p> <p>2 10:40, I'm back in there by -- that's hard to</p> <p>3 explain. I am not late.</p> <p>4 Q. Okay, you are not late.</p> <p>5 A. No, I am not late.</p> <p>6 Q. But what time do you --</p> <p>7 A. About five -- let's see, 15 after</p> <p>8 eleven, if that is correct.</p> <p>9 Q. And that's your experience that</p> <p>10 you're usually back by around 10:15, and as long as</p> <p>11 you're there --</p> <p>12 MR. STEENSLAND: Objection. That</p> <p>13 mischaracterizes what she says.</p> <p>14 THE DEPONENT: I'm trying to</p> <p>15 correct it.</p> <p>16 Q. (Mr. Fry) Let me ask you again.</p> <p>17 Your first break starts at 10:40 in the morning?</p> <p>18 A. Uh-huh.</p> <p>19 Q. What time do you recollect that you</p> <p>20 generally are back at your workstation ready to go?</p> <p>21 A. Okay, 15 after eleven.</p> <p>22 Q. 15 after eleven?</p> <p>23 A. That is my correction.</p>                            | <p style="text-align: right;">29</p> <p>1 little bit more detail. You indicated that you</p> <p>2 generally arrive around 7:10 a.m.?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Tell me what you do from the time you</p> <p>5 arrive at the plant until 7:25 when you walk into</p> <p>6 the debone room.</p> <p>7 A. I go take my stuff in the break room</p> <p>8 that I bring, go get my smock and come back, and</p> <p>9 get out all my stuff that I need to work with, and</p> <p>10 put my stuff in the lockers, and then I go -- if</p> <p>11 they allow us to go in, I go in to work. If they</p> <p>12 don't, we have to wait.</p> <p>13 Q. Sometimes the Sanitation people</p> <p>14 aren't finished; is that right?</p> <p>15 A. Right.</p> <p>16 Q. So the first thing you do is go to</p> <p>17 the break room?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And then you go to the supply room?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And pick up whatever you need?</p> <p>22 A. My smock.</p> <p>23 Q. How long does it take you to pick up</p> |

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|--|---|
| <p style="text-align: right;">30</p> <p>1 your smock at the supply room?</p> <p>2 A. I'd say about five minutes. Yes,</p> <p>3 about that.</p> <p>4 Q. There is a line there?</p> <p>5 A. There is a line, yes, sir.</p> <p>6 Q. What is the longest you have ever</p> <p>7 waited in that supply room?</p> <p>8 A. The longest I waited -- not that</p> <p>9 long, no, sir. I mean, I have waited. But just</p> <p>10 about that, yes.</p> <p>11 Q. Does the line go pretty quickly?</p> <p>12 A. Yes, sir, it does when you're picking</p> <p>13 up your smock. You know, it's all right.</p> <p>14 Q. Have you ever heard of anybody</p> <p>15 waiting in that line for an hour?</p> <p>16 A. An hour?</p> <p>17 Q. Yes.</p> <p>18 A. Yes, sir, I have.</p> <p>19 Q. Really?</p> <p>20 A. Uh-huh.</p> <p>21 Q. And did you understand what happened</p> <p>22 that they were waiting in the line for an hour?</p> <p>23 A. Well, the people up there were slow.</p> | <p style="text-align: right;">32</p> <p>1 o'clock, and then they go wait in line, and then</p> <p>2 they are still in line when I go up there. Then</p> <p>3 they call people telling them to work, and they are</p> <p>4 still in line. So a lot of them don't get their</p> <p>5 stuff. They have to just get what they can get.</p> <p>6 Q. What about you?</p> <p>7 A. Well, I wait in line to get my stuff,</p> <p>8 and I try to get out as quick as I can. I try to</p> <p>9 get up there and get my stuff in line and get out.</p> <p>10 Q. Well, you have to wait behind all</p> <p>11 those people, don't you?</p> <p>12 A. Yes, it just depends on where you at</p> <p>13 in line. But I usually try to get my stuff and get</p> <p>14 in there, but it's hard.</p> <p>15 Q. How do you know that those people</p> <p>16 have been waiting there for an hour?</p> <p>17 A. Well, some of them tells me they been</p> <p>18 there 30 minutes, an hour, waiting on their stuff.</p> <p>19 Q. Really?</p> <p>20 A. Yes, sir.</p> <p>21 Q. You're not required to pick up any</p> <p>22 special tools or anything to do your job before you</p> <p>23 go to work, are you?</p> |
| <p style="text-align: right;">31</p> <p>1 They wasn't getting their stuff out.</p> <p>2 Q. How often did that happen?</p> <p>3 A. Quite a bit.</p> <p>4 Q. An hour wait?</p> <p>5 A. Yes, sir, they have waited until time</p> <p>6 to go in to get their stuff.</p> <p>7 Q. So that means they had to arrive an</p> <p>8 hour before they had to start?</p> <p>9 A. Well --</p> <p>10 Q. Have you ever done that?</p> <p>11 A. No, sir, I haven't done that.</p> <p>12 Q. Have you ever had to wait there an</p> <p>13 hour?</p> <p>14 A. No, sir.</p> <p>15 Q. Have you ever seen anybody waiting</p> <p>16 there an hour?</p> <p>17 A. Yes, sir.</p> <p>18 Q. How many times?</p> <p>19 A. A lot of times.</p> <p>20 Q. How do you know they wait there an</p> <p>21 hour?</p> <p>22 A. Well, they are there -- some of them</p> <p>23 is there before I am, which is way before seven</p>  | <p style="text-align: right;">33</p> <p>1 A. No, sir.</p> <p>2 Q. In order to get on to the production</p> <p>3 floor, you need to go through double doors right</p> <p>4 across from the debone break room?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And you go through those first set of</p> <p>7 doors, and there is a place to sanitize your boots?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And do you have to stop in that</p> <p>10 little space?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And how long does it take to sanitize</p> <p>13 your boots?</p> <p>14 A. About three or four minutes there, to</p> <p>15 get them all.</p> <p>16 Q. Three or four minutes?</p> <p>17 A. To get it all on the shoes.</p> <p>18 Q. And then you go through another set</p> <p>19 of doors into the production room, right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And that's where you put on the</p> <p>22 equipment that you told me about, the clothing?</p> <p>23 A. Yes, sir.</p>   |



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1 Q. And how long does it take you to put  
2 the smock and the apron and gloves on?  
3 A. Five minutes. They trained us for  
4 five minutes.  
5 Q. Pardon?  
6 A. They trained me for five minutes. It  
7 takes other people longer.  
8 Q. You had training on how to put it on  
9 in five minutes?  
10 A. Yes, sir.  
11 Q. And then you go to the DSI room?  
12 A. Yes, sir.  
13 Q. And you said that's not far?  
14 A. Not too far, huh-uh.  
15 Q. Tell me what you have to do with your  
16 smock and your apron and so forth when it's time  
17 for you to go on your break.  
18 A. We take it all off and hang it on the  
19 hangers that they got in there.  
20 Q. Okay.  
21 A. And just leave it until we come back.  
22 Q. Do you wash it before you take it  
23 off?

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1 A. Yes, sir, in the sink, wash it off.  
2 Q. And then you take it off and you go  
3 to the break room?  
4 A. Yes, sir.  
5 Q. How long does it take you from the  
6 time you leave your place at DSI until you actually  
7 get into the break room?  
8 A. Until I actually get into the break  
9 room, okay. Well, you mean from taking off my  
10 stuff and getting in there?  
11 Q. Yes.  
12 A. Well, I'd say about two or three  
13 minutes, somewhere around there.  
14 Q. Two or three minutes?  
15 A. Somewhere around there.  
16 Q. At the end of the break when it's  
17 time for you to end your break and you go the  
18 reverse way, you go back to work, you have to go  
19 through the foot bath again?  
20 A. Yes, sir.  
21 Q. And you go in and put your stuff on  
22 and go back to the DSI room, correct?  
23 A. Yes, sir.

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1 Q. How long does that process take?  
2 A. From the time you do your shoes  
3 and -- are you saying from?  
4 Q. From the time that you leave the  
5 break room until you get to the DSI room?  
6 A. It takes me five minutes to get my  
7 stuff on and then to get through that -- well,  
8 altogether -- and wash my hands. I have to wash my  
9 hands off again, you know, my gloves off.  
10 MR. STEENSLAND: Your what off?  
11 THE DEPONENT: The gloves, you  
12 have to wash the gloves again.  
13 A. So getting through the thing bath,  
14 I'd say about five -- about ten minutes during all  
15 that.  
16 Q. (Mr. Fry) How much time do you  
17 estimate that you spend doing whatever you need to  
18 do on break, whether it be go to the bathroom or  
19 get something to eat?  
20 A. I don't understand what you're --  
21 Q. Once you get into the break room to  
22 start your break, how much time do you have in  
23 there until you have to leave the break room to go

37

1 back to work, in your experience?  
2 A. From the time I get in, I leave to go  
3 in there at 10:40, and then I go right -- I get all  
4 this other stuff off and everything, and are you --  
5 you've got me stumped here. I am not getting what  
6 you're --  
7 MR. STEENSLAND: Listen to his  
8 question.  
9 A. -- asking me.  
10 Q. (Mr. Fry) How much time do you have  
11 to yourself in the break room?  
12 A. In the break room after I get in  
13 there I've got three, four minutes to myself  
14 eating-wise. Because really actually to rest, you  
15 ain't got no time between eating. Because time you  
16 eat and put your stuff back in the locker, you've  
17 got to go back to work.  
18 Q. So is that your bathroom break as  
19 well?  
20 A. Yes, sir.  
21 Q. If you combine all that time  
22 together, it's got to be more than two or three  
23 minutes, doesn't it?



|   |   |
|---|---|
| <p style="text-align: right;">38</p> <p>1 A. And if you are going to heat anything</p> <p>2 -- I do not heat nothing, because it takes you too</p> <p>3 much time. You can't get to the microwave. So I</p> <p>4 have to get my stuff and come back to eat what I</p> <p>5 got to eat, and then put it back in the locker, and</p> <p>6 so you ain't got no time to rest. Time you do what</p> <p>7 you got to do, you got to go back to work.</p> <p>8 MR. STEENSLAND: Ms. Turner, do</p> <p>9 you remember what his question was?</p> <p>10 THE DEPONENT: Well, I'm working</p> <p>11 on it here.</p> <p>12 MR. STEENSLAND: I know you are.</p> <p>13 Just try to listen.</p> <p>14 Q. (Mr. Fry) From the time you enter</p> <p>15 the break room from your break, after you have done</p> <p>16 everything you need to do to get into the break</p> <p>17 room, until the time you leave the break room to go</p> <p>18 back to work after your break, just that time</p> <p>19 you're in the break room and doing whatever you do,</p> <p>20 how much time do you estimate that to be?</p> <p>21 A. I'm thinking on this now.</p> <p>22 Q. Take your time.</p> <p>23 A. Actually, about two or three minutes,</p> | <p style="text-align: right;">40</p> <p>1 MR. STEENSLAND: Don't apologize.</p> <p>2 MR. FRY: No need to be sorry.</p> <p>3 You are doing fine.</p> <p>4 Q. (Mr. Fry) Tell me what you do at the</p> <p>5 end of the day in terms of the steps you have to</p> <p>6 take when you leave the DSI line to when you walk</p> <p>7 out of the building to get in your car to go home.</p> <p>8 A. When we can go, we go to the sink and</p> <p>9 wash up, wash all of our stuff, dry it off, take it</p> <p>10 off, and then I divide my smock from other stuff,</p> <p>11 and I roll it up after I dry it off, and then</p> <p>12 that's in the back back there if we get to the</p> <p>13 sink, and then we come through and come out, and I</p> <p>14 throw my smock in that -- they got some things up</p> <p>15 there that you throw your smock -- throw it in</p> <p>16 there, and then I go to the break room and get all</p> <p>17 my other stuff up, and then I get in line with the</p> <p>18 others to clock out, and then I leave.</p> <p>19 Q. How long a period of time do those</p> <p>20 activities take?</p> <p>21 A. That's another question. If they let</p> <p>22 us out at 4:30, if we have to stay back there until</p> <p>23 4:30, we get up there, and we wait to clock out. I</p> |
| <p style="text-align: right;">39</p> <p>1 I would say.</p> <p>2 Q. Two or three minutes?</p> <p>3 A. Because in between that time when I</p> <p>4 get in there -- around three, somewhere around</p> <p>5 there. I am counting the time -- I look at the</p> <p>6 clock, and then I glance back at it, and I try to</p> <p>7 keep up with it so I don't be late getting back and</p> <p>8 eating my food. And when I straight come out, I go</p> <p>9 to the bathroom, get all that done, get my stuff</p> <p>10 and come back, and then I look at the clock. It's</p> <p>11 about ten after.</p> <p>12 Q. What you have just described to me --</p> <p>13 eating, going to the bathroom -- that has to take</p> <p>14 you more than two or three minutes.</p> <p>15 A. Well, I do know what time I go back</p> <p>16 in. I have told you that, and in between getting</p> <p>17 off and -- I don't know.</p> <p>18 MR. STEENSLAND: Ms. Turner, you</p> <p>19 answer the question as best you can.</p> <p>20 MR. FRY: Yes, you did. Thank</p> <p>21 you.</p> <p>22 THE DEPONENT: I am sorry,</p> <p>23 you-all.</p>   | <p style="text-align: right;">41</p> <p>1 got to think on this again.</p> <p>2 MR. STEENSLAND: Ms. Turner,</p> <p>3 think to yourself and then answer the question.</p> <p>4 Let's try that approach.</p> <p>5 THE DEPONENT: I am sorry.</p> <p>6 MR. STEENSLAND: That is okay.</p> <p>7 You can write it out if you want.</p> <p>8 THE DEPONENT: No, just give me a</p> <p>9 little second to think.</p> <p>10 A. It's so confusing because I don't</p> <p>11 ever look at the clock. About ten minutes 'til</p> <p>12 five I'm going to my car. That's close enough.</p> <p>13 Q. (Mr. Fry) Does the actual production</p> <p>14 sometimes end before 4:30?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And what happens on those occasions?</p> <p>17 A. We stay back there, and sometimes</p> <p>18 they might let us go. It's just according to</p> <p>19 how -- it's according to the supervisor.</p> <p>20 Q. Do you have any idea as to how the</p> <p>21 company keeps track of your hours for purposes of</p> <p>22 paying you?</p> <p>23 A. They have a little card that they use</p>  |

|   |  |
|---|--|
| <p style="text-align: right;">42</p> <p>1 if they want to clock you out.</p> <p>2 Q. Who is "they"?</p> <p>3 A. Vickie Whitland, I think she's the</p> <p>4 boss, one of the bosses.</p> <p>5 Q. Have you ever heard the phrase Master</p> <p>6 Card time?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Does that have any meaning to you?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And what does it mean to you?</p> <p>11 A. It means that they can clock you out</p> <p>12 when they want to, even though you are working.</p> <p>13 Q. Is it your understanding that you are</p> <p>14 paid on the basis of Master Card time?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And is it your claim in this lawsuit</p> <p>17 that you performed production work after the Master</p> <p>18 Card was swiped to end production?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And you were still in the DSI line</p> <p>21 putting the chicken up on the upper belt?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And that's your claim in this</p> | <p style="text-align: right;">44</p> <p>1 A. I look it over, yes, sir, but.</p> <p>2 Q. And that information shows the number</p> <p>3 of hours you worked?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And it shows your hourly rate, and</p> <p>6 then it shows a total?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And you review that information?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And are you telling me that there</p> <p>11 have been times when you reviewed that information</p> <p>12 and you felt it to be inaccurate?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And you went to your supervisor?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And how many times did that occur?</p> <p>17 A. Actually, I can't remember the</p> <p>18 times. I have been there -- I have been there so</p> <p>19 long.</p> <p>20 MR. STEENSLAND: Ms. Turner, what</p> <p>21 was his question?</p> <p>22 THE DEPONENT: I know his</p> <p>23 question.</p>   |
| <p style="text-align: right;">43</p> <p>1 lawsuit?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Are you sure about that?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Have you ever had occasion to</p> <p>6 complain to your supervisor about any mistakes in</p> <p>7 your paycheck?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And what happened?</p> <p>10 A. Well, they'd say I didn't stay there,</p> <p>11 or they'd come up with some kind of excuse, the</p> <p>12 reason I didn't get it, the pay that I was supposed</p> <p>13 to get.</p> <p>14 Q. So you complained that you thought</p> <p>15 you worked more hours than --</p> <p>16 A. Yes, sir.</p> <p>17 Q. How many times has that occurred?</p> <p>18 A. As many as I have been out a lot. I</p> <p>19 can't say how many times, but.</p> <p>20 Q. Do you get paid every week?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And do you review the payroll</p> <p>23 information that's on the stub?</p>   | <p style="text-align: right;">45</p> <p>1 MR. STEENSLAND: I think the</p> <p>2 first part of your answer was I don't know?</p> <p>3 A. Yes, sir, I don't know specifically</p> <p>4 how many times.</p> <p>5 Q. (Mr. Fry) And what was the result of</p> <p>6 your complaint?</p> <p>7 A. You're saying did I get what I didn't</p> <p>8 get?</p> <p>9 Q. On any of these those occasions, did</p> <p>10 they come back to you and say -- we made a mistake</p> <p>11 and we are going to make it right?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And am I correct that on other</p> <p>14 occasions they said -- no, Ms. Turner, you made a</p> <p>15 mistake and we're accurate? Did they say that?</p> <p>16 Did that ever happen?</p> <p>17 A. Yes, sir, it did.</p> <p>18 Q. So sometimes you thought they made an</p> <p>19 error, and they did -- and other times you thought</p> <p>20 they made an error, and they said they didn't?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Do you keep track of the hours that</p> <p>23 you worked there in any fashion by notes or</p> |

|  |  |
|--|--|
| <p style="text-align: right;">46</p> <p>1 notebook or anything?</p> <p>2 A. Calendar sometimes.</p> <p>3 Q. And what kind of information do you</p> <p>4 record on this calendar?</p> <p>5 A. I put the days and like the hours.</p> <p>6 Q. The number of hours you worked?</p> <p>7 A. Yes, sir.</p> <p>8 Q. When did you start keeping this</p> <p>9 calendar?</p> <p>10 A. Here recently I've been keeping them,</p> <p>11 but sometimes I wouldn't keep up with it, and then</p> <p>12 I'd start doing it again to make sure, if they</p> <p>13 changed supervisors or something.</p> <p>14 Q. And why did you decide to keep these</p> <p>15 calendars?</p> <p>16 A. Because they wouldn't -- they would</p> <p>17 miss some hours on there.</p> <p>18 Q. Do you still have these calendars in</p> <p>19 your possession?</p> <p>20 A. No, sir, I think I threw them away.</p> <p>21 Q. You threw them all away? You don't</p> <p>22 have any of them now?</p> <p>23 A. No, sir.</p>   | <p style="text-align: right;">48</p> <p>1 the half days. That's the way I do it.</p> <p>2 Q. From time to time are you asked to</p> <p>3 work overtime?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And on those occasions, are you paid</p> <p>6 time-and-a-half?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Have you ever filed a grievance with</p> <p>9 the Union?</p> <p>10 A. There used to be a lady. She was a</p> <p>11 Union representative there, but she's not there any</p> <p>12 more -- Ms. Barbara Green. She would do it for</p> <p>13 me. I didn't have no education, and when things</p> <p>14 would come up, she would do it for me.</p> <p>15 Q. What would she do for you?</p> <p>16 A. Like if they wanted to write me up</p> <p>17 for something that I didn't do or was going to give</p> <p>18 me a point for a day that they wasn't supposed to</p> <p>19 give it to me, she would help me.</p> <p>20 Q. She would take care of it for you?</p> <p>21 A. Yes.</p> <p>22 Q. Did you ever complain to Barbara</p> <p>23 Green with respect to these hours that you say you</p> |
| <p style="text-align: right;">47</p> <p>1 Q. Do you recall when you threw them</p> <p>2 away?</p> <p>3 A. It's been a while, a couple of months</p> <p>4 ago. I just threw them in the trash.</p> <p>5 Q. Before you threw them out or since</p> <p>6 then, did any of the attorneys ask you for that</p> <p>7 information, if you had any such documents?</p> <p>8 A. No, sir.</p> <p>9 Q. Have you made any sort of</p> <p>10 calculations as to what you think you're owed for</p> <p>11 these extra hours you worked on the production</p> <p>12 line?</p> <p>13 A. No, sir.</p> <p>14 Q. Those notes that you made on the</p> <p>15 calendar, did they show the extra hours you worked</p> <p>16 on the production line that you say you're owed</p> <p>17 money for?</p> <p>18 A. No, sir. Most of them just like --</p> <p>19 well, to be honest with you, I ain't got no</p> <p>20 education. So I put it down there like I want to</p> <p>21 put it down there, and I just put an "X" on the</p> <p>22 days I work, and if I work one day half a day, I</p> <p>23 put it down there so I can keep up with the days,</p> | <p style="text-align: right;">49</p> <p>1 worked and you weren't paid for?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Do you recall when you made those</p> <p>4 complaints?</p> <p>5 A. About three years ago.</p> <p>6 Q. What became of your complaints, if</p> <p>7 you know?</p> <p>8 A. I don't know.</p> <p>9 Q. You never heard any feedback?</p> <p>10 A. No, sir.</p> <p>11 Q. Is that the only time you have ever</p> <p>12 complained to the Union about your unpaid hours?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Have you complained to your</p> <p>15 supervisors about your unpaid hours of production</p> <p>16 work?</p> <p>17 A. Yes, sir, but they wouldn't talk to</p> <p>18 me.</p> <p>19 Q. Who did you complain to?</p> <p>20 A. Let me think. I got to think again.</p> <p>21 I am trying to think of his name.</p> <p>22 MR. STEENSLAND: Just think to</p> <p>23 yourself, Ms. Turner.</p>   |

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1 THE DEPONENT: I am sorry.  
 2 A. His first name was Sampson.  
 3 Q. (Mr. Fry) Sampson?  
 4 A. Uh-huh.  
 5 Q. Have you ever been written up for  
 6 anything at the plant?  
 7 A. No, sir.  
 8 MR. FRY: Thank you. That's all  
 9 I have.  
 10 MR. STEENSLAND: We're not done  
 11 yet, because I have some questions, Ms. Turner.  
 12  
 13 EXAMINATION BY MR. STEENSLAND:  
 14 Q. Ms. Turner, are you asking in this  
 15 lawsuit to be paid for all your hours that you have  
 16 worked for the company there at the plant?  
 17 A. Yes, sir.  
 18 Q. Mr. Fry was talking about production  
 19 time. Are there other times that you feel like  
 20 that you aren't being paid even though you are  
 21 doing work for the company?  
 22 A. Yes, sir, I do.  
 23 Q. Are we talking about times with

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1 putting on and putting off and washing PPE?  
 2 A. Yes, sir.  
 3 MR. FRY: Objection.  
 4 Q. (Mr. Steensland) What is production  
 5 time? What do you consider production time?  
 6 A. Production time?  
 7 Q. Remember you and Mr. Fry were talking  
 8 about that?  
 9 A. When you are on the job and you are  
 10 working.  
 11 Q. And what is your job?  
 12 A. To get the meat out, get the product  
 13 out.  
 14 Q. And where do you perform your job?  
 15 A. At work on the --  
 16 Q. On the line?  
 17 A. On the line.  
 18 Q. Are there other things that you do  
 19 that are not on the line?  
 20 A. No, sir.  
 21 Q. How do you get to the line? You  
 22 don't walk there in your clothing that you are  
 23 wearing today, do you?

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1 A. No, sir.  
 2 Q. What do you have to put on to get to  
 3 the line?  
 4 A. You have to put on your equipment  
 5 that you work with.  
 6 Q. Remember all that discussion about  
 7 how long it took you to do that. Do you feel like  
 8 you are being paid for that time?  
 9 A. No, I don't.  
 10 Q. That is not considered production  
 11 time, is it?  
 12 MR. FRY: Objection.  
 13 A. No.  
 14 Q. (Mr. Steensland) Would you consider  
 15 that production time?  
 16 A. Putting on your stuff?  
 17 Q. Yes. Verbal answer, yes or no.  
 18 Would you consider the time putting on and taking  
 19 off --  
 20 A. Yes.  
 21 Q. Is that considered production time?  
 22 A. Yes.  
 23 Q. That's considered production time

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1 when you are on the line?  
 2 A. Yes.  
 3 Q. Are you asking to get paid for all  
 4 the time it takes you to put on and take off your  
 5 PPE?  
 6 A. Yes.  
 7 Q. Both at the beginning and at the end  
 8 of the shift?  
 9 A. Yes, sir.  
 10 Q. The two 30-minute breaks that you  
 11 get, do you feel like you get to use all of those  
 12 30 minutes?  
 13 A. No, sir.  
 14 Q. And what is the reason why you don't  
 15 feel like you get to use all those 30-minute  
 16 breaks?  
 17 A. Because it takes you five minutes to  
 18 get your stuff on and five to get it off, and they  
 19 add in with your 30 minutes.  
 20 Q. And what is that stuff you are  
 21 referring to?  
 22 A. My equipment.  
 23 Q. And when you're doing that stuff,

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| <p style="text-align: right;">54</p> <p>1 taking on and off the equipment, that is not on the</p> <p>2 production line, is it?</p> <p>3 A. No.</p> <p>4 Q. Yes or no?</p> <p>5 A. No, sir.</p> <p>6 Q. You worked there during a period of</p> <p>7 time when you had to take your smock home and wash</p> <p>8 it, did I hear that right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And was that the period of time when</p> <p>11 you worked for Equity Group?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Do you remember how long that period</p> <p>14 was?</p> <p>15 A. Ever since I had started working</p> <p>16 there until the other company took over.</p> <p>17 Q. At some point in time, the policy</p> <p>18 changed and you were issued smocks every day; is</p> <p>19 that right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Was that done the day that Equity</p> <p>22 took over, or was that done sometime after?</p> <p>23 A. That was done at the beginning. When</p>  | <p style="text-align: right;">56</p> <p>1 Q. That's good enough. I want to go</p> <p>2 over this break time. We talked about one of your</p> <p>3 breaks began at 10:40. Do you remember that?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And how long is each one of your</p> <p>6 breaks?</p> <p>7 A. 30 minutes.</p> <p>8 Q. And I believe you said that you had</p> <p>9 not been written up before; is that right?</p> <p>10 A. That is correct.</p> <p>11 Q. Would you be written up if you were</p> <p>12 late returning to the line?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And if the break started at 10:40,</p> <p>15 what's 30 minutes after 10:40?</p> <p>16 A. Give me time to think a little.</p> <p>17 Q. What's 30 minutes after 10:30?</p> <p>18 A. We have to be back on the line by</p> <p>19 eleven --</p> <p>20 Q. Do you get confused on time?</p> <p>21 A. Yes, I do.</p> <p>22 Q. You know time periods, but you get</p> <p>23 confused on the actual time on the clock?</p> |
| <p style="text-align: right;">55</p> <p>1 we first started working there, what they issued</p> <p>2 us -- they issued everything, including three</p> <p>3 smocks.</p> <p>4 Q. And the reason they issued you three</p> <p>5 smocks is because you take them home and wash them?</p> <p>6 A. Yes, sir, everything we took home.</p> <p>7 Q. At some point in time, that policy</p> <p>8 changed?</p> <p>9 A. Yes, sir.</p> <p>10 Q. What about your boots -- during the</p> <p>11 time you worked for Equity, have you always been</p> <p>12 able to take home or wear home your boots?</p> <p>13 A. No, sir.</p> <p>14 Q. Is there any point in time when you</p> <p>15 had to take them off before you worked out of that</p> <p>16 plant?</p> <p>17 A. Yes, sir.</p> <p>18 Q. There was a time?</p> <p>19 A. There was a time.</p> <p>20 Q. Was that a time when you worked with</p> <p>21 Equity, when Equity was in charge of the plant, if</p> <p>22 you know?</p> <p>23 A. Yes, sir, I think so. I am --</p> | <p style="text-align: right;">57</p> <p>1 A. I get confused, yes.</p> <p>2 Q. You know for sure your break was 30</p> <p>3 minutes. Are you positive about that?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And are you ever late coming back</p> <p>6 from your lunch break, or your 10:40 break?</p> <p>7 A. I have been, yes.</p> <p>8 Q. Are you always late coming back from</p> <p>9 it?</p> <p>10 A. No, sir.</p> <p>11 Q. So taking on, washing off your</p> <p>12 equipment, enjoying your break, and then putting</p> <p>13 that equipment back on, and washing, and getting</p> <p>14 back to your line, you can normally do that in 30</p> <p>15 minutes?</p> <p>16 A. Yes, sir.</p> <p>17 Q. So it would be incorrect for you to</p> <p>18 say that it took you 45 minutes?</p> <p>19 MR. FRY: Objection.</p> <p>20 MR. STEENSLAND: You can answer</p> <p>21 the question.</p> <p>22 Q. (Mr. Steensland) It didn't take you</p> <p>23 45 minutes, did it?</p>                         |

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| <p style="text-align: right;">58</p> <p>1 MR. FRY: She never said it took</p> <p>2 her 45 minutes.</p> <p>3 MR. STEENSLAND: She was saying</p> <p>4 11:15 minutes.</p> <p>5 MR. FRY: Well, that is not 45</p> <p>6 minutes. It was the other lady that said 45</p> <p>7 minutes.</p> <p>8 MR. STEENSLAND: It was a good</p> <p>9 question. I am sorry.</p> <p>10 THE DEPONENT: Can I say</p> <p>11 something here?</p> <p>12 MR. STEENSLAND: Hang on. Let me</p> <p>13 ask you a question.</p> <p>14 Q. (Mr. Steensland) Does the 10:40</p> <p>15 break, does that end at 11:10 or 11:15?</p> <p>16 A. Well, 11:15 I am going back in</p> <p>17 there. So I've never had anybody say anything to</p> <p>18 me.</p> <p>19 Q. All right.</p> <p>20 A. And I can get my -- if I say this --</p> <p>21 I can get my stuff on and get back in there, and</p> <p>22 well I --</p> <p>23 Q. We will move on. Last thing -- on</p> | <p style="text-align: right;">60</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 AT LARGE</p> <p>5</p> <p>6 I hereby certify that the above</p> <p>7 and foregoing deposition was taken down by me in</p> <p>8 stenotype and the questions and answers thereto</p> <p>9 were transcribed by means of computer-aided</p> <p>10 transcription and that the foregoing represents a</p> <p>11 true and correct transcript of the testimony given</p> <p>12 by said witness upon said deposition.</p> <p>13 I further certify that I am</p> <p>14 neither of counsel nor of kin to the parties to the</p> <p>15 action, nor am I in anywise interested in the</p> <p>16 result of said cause.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Victoria M. Castillo, Certified Court Reporter</p> <p>23 ACCR# 17, Expires 9/30/2008</p> <p>Commissioner and Notary Public</p> |
| <p style="text-align: right;">59</p> <p>1 the training. You said you were trained to put</p> <p>2 your gear on and have it washed in five minutes?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Is that right?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Who trained you?</p> <p>7 A. His name was Bernard, but I don't</p> <p>8 know his last name.</p> <p>9 Q. Somebody at the plant?</p> <p>10 A. Yes, sir. We wasn't trained at that</p> <p>11 plant.</p> <p>12 MR. STEENSLAND: Nothing further.</p> <p>13 MR. FRY: Thank you, Ms. Turner.</p> <p>14 2:26 p.m.</p> <p>15 *****</p> <p>16 FURTHER DEPONENT SAITH NOT</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   |  |

**TAB 54**



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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CASE NUMBER: 2:06-CV-1081-MEF

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner

and Certified Court Reporter

DEPOSITION TESTIMONY OF  
LAKESHIA WARREN

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|---|--|
| <p style="text-align: right;">2</p> <p>1           STIPULATION</p> <p>2</p> <p>3           IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of LAKESHIA WARREN</p> <p>6 may be taken before Cynthia M. Noakes, Court</p> <p>7 Reporter, at the Law Offices of WILLIAMS,</p> <p>8 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>9 Avenue, Eufaula, Alabama 36027, on the 23rd day</p> <p>10 of May, 2008.</p> <p>11          IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18          IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p style="text-align: right;">4</p> <p>1           INDEX</p> <p>2   EXAMINATION BY:           PAGE NUMBER:</p> <p>3   MR. GOULD                 6-35</p> <p>4</p> <p>5   EXHIBITS:</p> <p>6   (No exhibits were</p> <p>7   submitted to said deposition.)</p> <p>8</p> <p>9   Reporter's Certificate           36</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20   *****</p> <p>21</p> <p>22</p> <p>23</p>  |
| <p style="text-align: right;">3</p> <p>1   the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3          IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17   *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>   | <p style="text-align: right;">5</p> <p>1           APPEARANCES</p> <p>2</p> <p>3   ON BEHALF OF THE PLAINTIFFS:</p> <p>4       MR. P. MARK PETRO</p> <p>5       SCHREIBER &amp; PETRO, PC</p> <p>6       ATTORNEYS AT LAW</p> <p>7       Two Metroplex Drive</p> <p>8       Suite 250</p> <p>9       Birmingham, Alabama 35209</p> <p>10      (205) 871-5080</p> <p>11</p> <p>12   ON BEHALF OF THE DEFENDANT:</p> <p>13      MR. MALCOLM S. GOULD</p> <p>14      PELINO &amp; LENTZ</p> <p>15      ATTORNEYS AT LAW</p> <p>16      One Liberty Place</p> <p>17      Thirty-Second Floor</p> <p>18      Philadelphia, Pennsylvania 19103</p> <p>19      (215) 665-1540</p> <p>20</p> <p>21   *****</p> <p>22</p> <p>23</p> |

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| <p style="text-align: right;">6</p> <p>1 I, CYNTHIA M. NOAKES, a Certified</p> <p>2 Court Reporter of Eufaula, Alabama, acting as</p> <p>3 Commissioner, certify that on this date, as</p> <p>4 provided by the Alabama Rules of Civil Procedure</p> <p>5 and the foregoing stipulation of counsel, there</p> <p>6 came before me at the Law Offices of WILLIAMS,</p> <p>7 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>8 Avenue, Eufaula, Alabama 36027, beginning at</p> <p>9 4:20 p.m., LAKESHIA WARREN, witness in the above</p> <p>10 cause, for oral examination, whereupon the</p> <p>11 following proceedings were had:</p> <p>12</p> <p>13 LAKESHIA WARREN,</p> <p>14 being first duly sworn, was examined and</p> <p>15 testified as follows:</p> <p>16</p> <p>17 THE COURT REPORTER: Usual</p> <p>18 stipulations?</p> <p>19 MR. PETRO: Yes.</p> <p>20 MR. GOULD: Yes.</p> <p>21</p> <p>22 EXAMINATION</p> <p>23 BY MR. GOULD:</p>   | <p style="text-align: right;">8</p> <p>1 differently.</p> <p>2 In addition, if you answer my question, I'm</p> <p>3 to going assume that you understood it and you've</p> <p>4 answered it truthfully and to the best of your</p> <p>5 ability.</p> <p>6 A. Okay.</p> <p>7 Q. I don't anticipate that the deposition will</p> <p>8 take long, but if you need to take a break, let me</p> <p>9 know and we'll take a break.</p> <p>10 A. Okay.</p> <p>11 Q. Okay. Now, can you state your name for the</p> <p>12 record, please?</p> <p>13 A. My name is Lakeshia Evette Warren.</p> <p>14 Q. And, Ms. Warren, what is your home address?</p> <p>15 A. 16 Paul Lee Parkway 3, Eufaula, Alabama</p> <p>16 36027.</p> <p>17 Q. Is that there by the Comfort Suites?</p> <p>18 A. Right.</p> <p>19 Q. Are you currently employed?</p> <p>20 A. Yes, I am.</p> <p>21 Q. Where do you work?</p> <p>22 A. Barbour County Sheriff's Department.</p> <p>23 Q. And how long have you been employed there?</p>                          |
| <p style="text-align: right;">7</p> <p>1 Q. Good afternoon, Ms. Warren?</p> <p>2 A. Good afternoon.</p> <p>3 Q. My name is Malcolm Gould. I'm an attorney</p> <p>4 with the law firm of Pelino &amp; Lentz in</p> <p>5 Philadelphia. I'm an attorney for Equity Group</p> <p>6 Eufaula Division. We're here to take your</p> <p>7 deposition in relation to a lawsuit that's been</p> <p>8 filed in the Middle District of Alabama in Federal</p> <p>9 Court. You are a plaintiff in that lawsuit.</p> <p>10 As you see here, we have a court reporter.</p> <p>11 She's going to take down my questions and your</p> <p>12 answers. I would ask that you keep all of your</p> <p>13 answers verbal. Say yes or no instead of nodding</p> <p>14 your head or shaking your head.</p> <p>15 A. Okay.</p> <p>16 Q. I'd also ask that you say yes or no instead</p> <p>17 of saying uh-huh or huh-uh. That way we're sure</p> <p>18 that she gets down the correct answer to your</p> <p>19 question.</p> <p>20 A. Yes, sir.</p> <p>21 Q. If you have any questions or if the question</p> <p>22 I ask you isn't clear, just let me know. I'll</p> <p>23 either repeat the question or try and ask it</p> | <p style="text-align: right;">9</p> <p>1 A. Eight months.</p> <p>2 Q. And did you previously work at the chicken</p> <p>3 processing facility in Baker Hill?</p> <p>4 A. Yes, I did.</p> <p>5 Q. And how long did you work there?</p> <p>6 A. Three and a half years.</p> <p>7 Q. And when was the last time that you worked</p> <p>8 there?</p> <p>9 A. End of 2006 almost. Maybe around November</p> <p>10 or something like that.</p> <p>11 Q. Ms. Warren, when you started working at the</p> <p>12 plant, was it owned by Equity Group?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And when you left the plant, what position</p> <p>15 were you working in?</p> <p>16 A. Packout.</p> <p>17 Q. Did you work in any other positions at the</p> <p>18 plant?</p> <p>19 A. Yes, sir, I did.</p> <p>20 Q. And what other positions did you work in?</p> <p>21 A. I worked on the line for a couple of months,</p> <p>22 and then I went to rehang, and then I went to</p> <p>23 packout and I stayed in packout. I went to the</p> |

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| <p style="text-align: right;">10</p> <p>1 pallet ticket table. I worked in DSI sometimes.</p> <p>2 I was all over the plant.</p> <p>3 Q. In which position did you spend the majority</p> <p>4 of your time?</p> <p>5 A. I worked in the rehang for over a year until</p> <p>6 I got pregnant. So when I came back, I went to</p> <p>7 packout, and I was there for a year or so.</p> <p>8 Q. And how long did you work on the debone</p> <p>9 line?</p> <p>10 A. Not long. Maybe three months, four months</p> <p>11 or something.</p> <p>12 Q. Which position did you work in first?</p> <p>13 A. Debone, on the line.</p> <p>14 Q. And then did you also indicate that you</p> <p>15 worked in DSI?</p> <p>16 A. Yes.</p> <p>17 Q. And how long did you work in DSI?</p> <p>18 A. Maybe for a day or two. When they were</p> <p>19 short of help, they'd pull people and send them</p> <p>20 here and send them there.</p> <p>21 Q. I understand.</p> <p>22 A. It wasn't no permanent job.</p> <p>23 Q. So in DSI, it would be more like a fill-in</p>                                       | <p style="text-align: right;">12</p> <p>1 the ticket table?</p> <p>2 A. The pallet ticket table.</p> <p>3 Q. And what did you do there?</p> <p>4 A. The pallet ticket table is when packout bags</p> <p>5 the meat, box it, put ice on it, fill it,</p> <p>6 whatever, and they stack them on a pallet so many</p> <p>7 high.</p> <p>8 And they bring them over there, and I scan</p> <p>9 them and write a ticket for them. And then the</p> <p>10 pallet jack person will wrap them, and they'll</p> <p>11 take them and put them on a truck or put them in a</p> <p>12 cooler. It's an accurate count of what they've</p> <p>13 done.</p> <p>14 Q. In connection with your work at the pallet</p> <p>15 ticket table, did you have to wear any items of</p> <p>16 clothing or equipment when you were out on the</p> <p>17 production floor?</p> <p>18 A. Yes.</p> <p>19 Q. Can you list those for me?</p> <p>20 A. Smock, cutting gloves, hair net, earplugs,</p> <p>21 safety glasses, boots of course, apron, sleeves,</p> <p>22 because that stuff be dripping everywhere. No arm</p> <p>23 guard. That's it.</p>                   |
| <p style="text-align: right;">11</p> <p>1 situation?</p> <p>2 A. On some occasions, yes.</p> <p>3 Q. And is that when you were working in</p> <p>4 packout? You would be pulled from packout to go</p> <p>5 into DSI?</p> <p>6 A. No, not necessarily packout. That's</p> <p>7 anywhere in the plant, all the way from debone.</p> <p>8 Q. Ma'am, in connection with your employment in</p> <p>9 packout, did you work with a knife or scissors?</p> <p>10 A. No, sir.</p> <p>11 Q. And in connection with your work in rehang,</p> <p>12 did you work with a knife or scissors?</p> <p>13 A. In rehang?</p> <p>14 Q. Yes, ma'am.</p> <p>15 A. No, sir.</p> <p>16 Q. And in connection with your work in DSI, did</p> <p>17 you work with a knife or scissors?</p> <p>18 A. Yes. I take that back. In packout, some</p> <p>19 days, when they had a bunch of feathers on the</p> <p>20 chickens, you might have to work with scissors.</p> <p>21 It just depends on whether they're bad chickens or</p> <p>22 they're good chickens.</p> <p>23 Q. And then you said that you also worked at</p> | <p style="text-align: right;">13</p> <p>1 Make sure. Ear plugs, hair net, apron,</p> <p>2 smock, boots, sleeves, and blue gloves.</p> <p>3 Q. Did you say you had to wear an arm guard?</p> <p>4 A. No, no arm guard.</p> <p>5 Q. Okay. And did you wear rubber gloves when</p> <p>6 you were at the pallet ticket table?</p> <p>7 A. Sometimes. I always had cotton liners, two</p> <p>8 pair, because it was cold from that dry ice. So</p> <p>9 sometimes. Majority. Or if I put on two pair of</p> <p>10 cotton gloves, then I wouldn't put on the blue</p> <p>11 gloves.</p> <p>12 Q. Okay.</p> <p>13 A. They pop so easy.</p> <p>14 Q. And when you worked in packout, would you</p> <p>15 wear those same items or would you wear different</p> <p>16 items?</p> <p>17 A. You wear the same, but with the blue gloves</p> <p>18 and -- yeah. With the apron, yeah. I said apron,</p> <p>19 didn't I?</p> <p>20 Q. Yes. Were you required to wear an apron</p> <p>21 when you worked at the pallet ticket table?</p> <p>22 A. Yeah, unless you wanted to mess up your</p> <p>23 clothes. That stuff, it drips from the boxes and</p> |

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| <p style="text-align: right;">14</p> <p>1 the juices off the chicken. Yeah, you have to</p> <p>2 wear an apron.</p> <p>3 Q. And when you worked in rehang, what items</p> <p>4 did you have to wear?</p> <p>5 A. The same except the arm guard.</p> <p>6 Q. So you would wear a hard plastic arm guard</p> <p>7 when you worked in rehang?</p> <p>8 A. I said the same except an arm guard.</p> <p>9 Q. Okay. So when you worked in packout you</p> <p>10 would wear an arm guard?</p> <p>11 A. No.</p> <p>12 Q. When you worked at the pallet ticket table</p> <p>13 you would wear an arm guard.</p> <p>14 A. No. Just on the debone line you would wear</p> <p>15 an arm guard. Unless you were working with the</p> <p>16 scissors, then you have to wear an arm guard.</p> <p>17 Like I said, in packout, if you had to work</p> <p>18 with scissors that day or DSI, you had to wear an</p> <p>19 arm guard because you were using the scissors.</p> <p>20 But rehang, no; pallet ticket table, no. You</p> <p>21 don't work with those items over there, knives and</p> <p>22 scissors.</p> <p>23 Q. Ma'am, when you worked at the plant were you</p>   | <p style="text-align: right;">16</p> <p>1 time; something needs to be did about this. Stuff</p> <p>2 like that. Well, we're getting up; and we'd say,</p> <p>3 we don't have time; they're always calling break.</p> <p>4 We don't have, I say, not that much time to</p> <p>5 do anything. You have to unsanitize yourself,</p> <p>6 sanitize yourself; you have to -- at one point in</p> <p>7 time you had to take your boots off to go outside,</p> <p>8 you had to take your hair nets off and all that.</p> <p>9 So we didn't have enough time for anything, to do</p> <p>10 anything.</p> <p>11 Q. And was this a union meeting where there</p> <p>12 were multiple people attending, or was this just a</p> <p>13 conversation that you were having with a union</p> <p>14 representative?</p> <p>15 A. Well, at one point in time it was. But,</p> <p>16 yeah, it was with a group of people.</p> <p>17 Q. Where was the union meeting?</p> <p>18 A. We've got union reps that work there with us</p> <p>19 at the chicken plant, of course. So it could have</p> <p>20 been when we're coming to work or between breaks</p> <p>21 or something, when you just say, I'm really upset;</p> <p>22 I'm going to talk to my union rep about this, or</p> <p>23 whatever. And you'll just go and say something to</p> |
| <p style="text-align: right;">15</p> <p>1 a member of the union?</p> <p>2 A. I was.</p> <p>3 Q. Did you ever attend any union meetings?</p> <p>4 A. A couple at work, yes, sir.</p> <p>5 Q. Do you recall what was discussed at those</p> <p>6 union meetings?</p> <p>7 A. Something, just complaints. I'll tell you</p> <p>8 in a second. One was a problem about this right</p> <p>9 here, our breaks. That was it. The other stuff</p> <p>10 that was going on don't have anything to do with</p> <p>11 you guys.</p> <p>12 Q. What other things would they have been?</p> <p>13 A. Just little stuff that goes on, you know.</p> <p>14 May have a problem with something that went on</p> <p>15 that you had with your supervisor or something, so</p> <p>16 you would go talk with your union rep about it, if</p> <p>17 there was a write-up or anything like that. Stuff</p> <p>18 like that. Point system.</p> <p>19 Q. Now, when you said that you had discussed at</p> <p>20 a union meeting something about breaks, can you</p> <p>21 describe for me what that was?</p> <p>22 A. We was saying that we were getting wrote up</p> <p>23 for it, and we were saying we don't have enough</p> | <p style="text-align: right;">17</p> <p>1 them right quick. And they'll say, well,</p> <p>2 so-and-so, you know, like that. And then, "Well,</p> <p>3 I'll check it out and get back with you and we'll</p> <p>4 let you know." Like that. It wasn't this no</p> <p>5 meeting, a meeting like a five- or 10- or 20-</p> <p>6 minute meeting, or like this, no. It's just you</p> <p>7 go tell them what your problem is; and they'll</p> <p>8 listen, and then they'll get back with you, even</p> <p>9 if it's inside the plant or wherever.</p> <p>10 Q. Do you recall the names of any of your union</p> <p>11 representatives?</p> <p>12 A. Uh-huh.</p> <p>13 Q. And which ones do you remember?</p> <p>14 A. I remember Ms. Jackie Massey; I remember --</p> <p>15 THE COURT REPORTER: Ms. Jackie who?</p> <p>16 THE WITNESS: Massey. I think it's</p> <p>17 Massey. What's Jackie's last name? I think it's</p> <p>18 Massey.</p> <p>19 A. Jerome Lewis, Roger. I don't know his last</p> <p>20 name.</p> <p>21 Q. All right. Ma'am, I'm to going to ask you</p> <p>22 some questions about the time that you worked in</p> <p>23 packout.</p>  |

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| <p style="text-align: right;">18</p> <p>1 When you worked in packout, can do you</p> <p>2 remember what time your shift started?</p> <p>3 A. (Witness nods head.)</p> <p>4 Q. What was that?</p> <p>5 A. 7:30.</p> <p>6 Q. So you worked day shift?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And did you work day shift the entire time</p> <p>9 you worked at the plant?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And when you worked in packout, when you</p> <p>12 would report to the plant, did you have to clear</p> <p>13 any kind of security?</p> <p>14 A. When we were all coming on the premises of</p> <p>15 the chicken plant?</p> <p>16 Q. Yes, ma'am.</p> <p>17 A. No. No, sir. Because they have an ID decal</p> <p>18 on your car, so they look at it. Unless you don't</p> <p>19 have one, then you have to stop; and they'll give</p> <p>20 you a little pass to get in or something.</p> <p>21 Q. But as long as you had the sticker, you</p> <p>22 could drive through?</p> <p>23 A. Correct.</p>                                | <p style="text-align: right;">20</p> <p>1 it? What time is it?" You get out of the line</p> <p>2 and go clock in, when you probably should have</p> <p>3 just clocked in first. But it's still going to be</p> <p>4 the same thing. You're still going to be in that</p> <p>5 long line getting your supplies.</p> <p>6 Q. I think you said all of that without taking</p> <p>7 a break. You're putting the court reporter to</p> <p>8 work here.</p> <p>9 MR. PETRO: Yeah. Slow down just a</p> <p>10 little bit.</p> <p>11 THE WITNESS: I'm sorry.</p> <p>12 Q. Now, ma'am, during the time that you were</p> <p>13 working at the plant, could you wear your boots</p> <p>14 from home?</p> <p>15 A. At one point in time you could; then they</p> <p>16 started saying that you couldn't wear them</p> <p>17 outside, period.</p> <p>18 Q. So for part of the time you could and for</p> <p>19 part of the time you couldn't?</p> <p>20 A. Right. And the same thing went for the hair</p> <p>21 nets. At one point in time you could wear them --</p> <p>22 MR. PETRO: He wasn't asking you about</p> <p>23 the hair nets.</p> |
| <p style="text-align: right;">19</p> <p>1 Q. And was there any other security that you</p> <p>2 had to clear to enter the building?</p> <p>3 A. No, sir.</p> <p>4 Q. No metal detectors or turnstiles?</p> <p>5 A. No, sir.</p> <p>6 Q. No pat-downs?</p> <p>7 A. No, sir.</p> <p>8 Q. Okay. And when you arrived at the plant and</p> <p>9 you entered the building, what would be the next</p> <p>10 thing you would do?</p> <p>11 A. Go get your supplies.</p> <p>12 Q. Would you clock in?</p> <p>13 A. Yes.</p> <p>14 Q. Would you do that first?</p> <p>15 A. It just depends, you know. The first thing</p> <p>16 we'd do would -- yeah, you would clock in first,</p> <p>17 so that you're going to clock in before 7:30. And</p> <p>18 it depends on what time you got there.</p> <p>19 So if you feel like you have enough time to</p> <p>20 go ahead and get your supplies, you wouldn't clock</p> <p>21 in.</p> <p>22 Maybe you're standing in the line and you</p> <p>23 say, "Oh, my God, what time is it? What time is</p> | <p style="text-align: right;">21</p> <p>1 THE WITNESS: Yeah, I know, but I was</p> <p>2 just telling him it was the same thing about the</p> <p>3 hair nets as the boots. Both of that, you</p> <p>4 couldn't wear them outside the plant again.</p> <p>5 MR. PETRO: Just answer his question.</p> <p>6 THE WITNESS: 10-4.</p> <p>7 Q. Were there any other items that you could</p> <p>8 wear outside of the plant?</p> <p>9 A. That you couldn't or could?</p> <p>10 Q. That you could.</p> <p>11 A. No, sir.</p> <p>12 Q. So when you would arrive at the plant, would</p> <p>13 you be carrying any of your items or equipment</p> <p>14 with you?</p> <p>15 A. Yes.</p> <p>16 Q. So you would have taken them home with you</p> <p>17 at the end of your shift?</p> <p>18 A. Yes.</p> <p>19 Q. Which ones would you be carrying with you</p> <p>20 when you arrived at the plant?</p> <p>21 A. Everything we had to wash: Smock, apron,</p> <p>22 sleeves. Whatever you had.</p> <p>23 Q. At the time you worked at the plant, you had</p>   |



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| <p style="text-align: right;">22</p> <p>1 to take your smock home and wash it?</p> <p>2 A. (Witness nods head.) And then they stopped</p> <p>3 it and then washed it themselves. Because it was</p> <p>4 a big problem. Everybody was complaining.</p> <p>5 They were saying they were dingy, so I guess</p> <p>6 they started washing them themselves for that</p> <p>7 reason; I don't know.</p> <p>8 Q. So at some point in time you were able to</p> <p>9 just leave your smock at the plant?</p> <p>10 A. Correct.</p> <p>11 Q. And the company washed them?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And then you would have to get a new smock</p> <p>14 every day?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Do you recall when that changed?</p> <p>17 A. It changed around 2006, somewhere up in</p> <p>18 there. End of 2005, 2006, something like that.</p> <p>19 Q. Now, when you worked in packout, you</p> <p>20 indicated to me that sometimes you might get your</p> <p>21 supplies first and sometimes you might clock in</p> <p>22 first; is that correct?</p> <p>23 A. Yes.</p>   | <p style="text-align: right;">24</p> <p>1 A. When did it start?</p> <p>2 Q. Yes.</p> <p>3 A. It sure didn't start when I walked in the</p> <p>4 door. It should have. 7:30.</p> <p>5 Q. If sanitation was still cleaning the</p> <p>6 production area and you couldn't actually go out</p> <p>7 onto the floor, were you still paid starting at</p> <p>8 7:30?</p> <p>9 A. Yes.</p> <p>10 Q. When would you normally arrive at the plant</p> <p>11 when you were working in packout?</p> <p>12 A. Between 7:10, 7:05, something like that.</p> <p>13 You'd get there early.</p> <p>14 Q. Can you describe for me what you would do</p> <p>15 when you went out to the production floor?</p> <p>16 A. After I walked through the doors?</p> <p>17 Q. Yes, ma'am. After you had picked up your</p> <p>18 supplies and clocked in. I'm talking about when</p> <p>19 you actually go out onto the floor.</p> <p>20 A. Well, when you open the doors to go in the</p> <p>21 place, there's the little boot sanitation thing.</p> <p>22 You spray your boots off. Even though you didn't</p> <p>23 wear them, you've still got to clean them. Go to</p>   |
| <p style="text-align: right;">23</p> <p>1 Q. After you clocked in and got your supplies,</p> <p>2 what would you do next?</p> <p>3 A. You would go in. And they'll tell you when</p> <p>4 you could come in and when you couldn't come in.</p> <p>5 Like, if sanitation was there and working late or</p> <p>6 whatever, you couldn't come in until a certain</p> <p>7 time. So that's when they would be standing at</p> <p>8 the door and they'll come out and say, "It's time</p> <p>9 to come in. It's time to come in." And everybody</p> <p>10 will start coming in.</p> <p>11 But as far as you just going to get your</p> <p>12 supplies and go in, it just depends on what was</p> <p>13 going on that morning or something. But most of</p> <p>14 the time you couldn't just go ahead and go in</p> <p>15 after you got your supplies.</p> <p>16 On a Monday or something, you could go. But</p> <p>17 everybody gets their supplies on Monday.</p> <p>18 Everybody.</p> <p>19 Q. When you were working in packout, what's</p> <p>20 your understanding as to when the time for which</p> <p>21 you were paid started?</p> <p>22 A. When the time I was paid started?</p> <p>23 Q. Yes, ma'am.</p> | <p style="text-align: right;">25</p> <p>1 where you want to dress-in at within the debone</p> <p>2 doors. And you put on your supplies. Everybody's</p> <p>3 putting on supplies. You had to find a spot to</p> <p>4 put it on at anyway. And then we got fully</p> <p>5 dressed and you go and take your spot and start to</p> <p>6 work.</p> <p>7 Q. Approximately how long would it take you</p> <p>8 from the time you walked through the double doors</p> <p>9 to the time you got on the line?</p> <p>10 A. Maybe seven, eight minutes, something like</p> <p>11 that. Because you've got to also sanitize your</p> <p>12 stuff. Even if it's brand new, you've still got</p> <p>13 to sanitize it.</p> <p>14 Q. When you say "sanitize your stuff" --</p> <p>15 A. You have to go to the sink and wash your</p> <p>16 gloves, wash your sleeves, wash your smock, and go</p> <p>17 to your spot.</p> <p>18 Q. Did you ever actually time yourself with a</p> <p>19 stopwatch or anything like that?</p> <p>20 A. You don't have to; they're yelling what time</p> <p>21 it is. It's such and such a time. The line</p> <p>22 started at 7:30. You don't have to; they're</p> <p>23 yelling at you. "Go to the line."</p> |



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|---|--|
| <p style="text-align: right;">26</p> <p>1 But it's a big clock right there anyway, so</p> <p>2 you can see what time it is.</p> <p>3 Q. Did you ever actually time yourself for the</p> <p>4 amount of time it took you to put on your stuff</p> <p>5 and to wash it or sanitize it?</p> <p>6 A. Not really, no, sir. But you know what time</p> <p>7 it is. Like I said, you're always asking, "What</p> <p>8 time is it?" And then I had a stopwatch anyway,</p> <p>9 so I was always looking at my stopwatch. Because</p> <p>10 you're going to get wrote up if you're not in</p> <p>11 there at 7:30, so you're constantly looking. And</p> <p>12 everybody knows and is trying to see what time it</p> <p>13 is. So, yeah, I guess that answer would be yes.</p> <p>14 Q. Did you get any breaks during the course of</p> <p>15 your shift?</p> <p>16 A. Yes.</p> <p>17 Q. And how many breaks did you get?</p> <p>18 A. Two.</p> <p>19 Q. And how long were your breaks?</p> <p>20 A. They were supposed to be 30 minutes. They</p> <p>21 were supposed to be 30 minutes, but...</p> <p>22 Q. Okay. You answered my question. I'll ask</p> <p>23 you some more questions. I appreciate your</p> | <p style="text-align: right;">28</p> <p>1 break?</p> <p>2 A. Yeah. And you would see everybody running</p> <p>3 and everything anyway, so you knew it was break</p> <p>4 time.</p> <p>5 Q. And can you describe for me what you would</p> <p>6 do from the time you were released from break to</p> <p>7 the time you would exit the production floor?</p> <p>8 A. Yes, sir. When you left from break you</p> <p>9 would go and you wash your stuff off, your gloves</p> <p>10 and your hands, wash all that off. Then you go</p> <p>11 back over there to the rack and take all that</p> <p>12 stuff off and hang it up. If you're going outside</p> <p>13 or whatever, you have to take your boots off, go</p> <p>14 out, and get your stuff to eat for a break.</p> <p>15 That's what you do when you go out.</p> <p>16 Q. All right. Thank you. Approximately how</p> <p>17 long would it take you from the time you left the</p> <p>18 line to the time you exited the production floor?</p> <p>19 A. It's kind of hard to answer because -- I'd</p> <p>20 say maybe the same. About eight minutes, maybe</p> <p>21 nine, ten, something like that. It just depends;</p> <p>22 it really does. It would be the same amount of</p> <p>23 time almost every day; it might be a little</p> |
| <p style="text-align: right;">27</p> <p>1 enthusiasm this late in the day. I will give you</p> <p>2 plenty of opportunities to say more, but I'd</p> <p>3 appreciate it, in fairness to everybody else who's</p> <p>4 waiting outside to have their deposition taken, if</p> <p>5 you could just answer my questions.</p> <p>6 A. Okay.</p> <p>7 Q. Thank you. And would your breaks normally</p> <p>8 occur at the same time every day?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And what times would your breaks occur?</p> <p>11 A. Let me remember. 10:15 or 10:20 would be</p> <p>12 the first one, and I think the second one would be</p> <p>13 12:15 or 11:40 or something like that. And I --</p> <p>14 you told me just to answer the questions; that's</p> <p>15 what I'm going to do.</p> <p>16 Q. Thank you.</p> <p>17 A. You're welcome.</p> <p>18 Q. Can you tell me how you would know when you</p> <p>19 were released from break?</p> <p>20 A. The supervisor or someone would call break,</p> <p>21 and that's how we would know.</p> <p>22 Q. So when you were working in packout, your</p> <p>23 supervisor would tell you it was okay to leave for</p>                                | <p style="text-align: right;">29</p> <p>1 longer. It may be seven or eight minutes every</p> <p>2 day. It just depends.</p> <p>3 Q. Okay. So your answer is that you're not</p> <p>4 sure; it could change?</p> <p>5 A. It depends on what kind of day it has been</p> <p>6 or if we were real, real busy that day or if</p> <p>7 they've got the lines turned up extremely high.</p> <p>8 It just depends. But I would say seven to eight</p> <p>9 minutes.</p> <p>10 Q. Okay. Thank you. Now, after you exited the</p> <p>11 production doors, what would you do next? Would</p> <p>12 you go out to the break room?</p> <p>13 A. Yes.</p> <p>14 Q. Would you go into the debone break room?</p> <p>15 A. Yes.</p> <p>16 Q. And what would you do when you got into the</p> <p>17 break room?</p> <p>18 A. You would eat. Go to the vending machine</p> <p>19 and get what you wanted, if you didn't bring your</p> <p>20 lunch, and try to eat it. And then it's time to</p> <p>21 go back to work.</p> <p>22 Q. And how would you know when it's time to go</p> <p>23 back to work?</p>  |

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| <p style="text-align: right;">30</p> <p>1 A. We've got a clock in the break room.</p> <p>2 Q. How long would you normally be in the break</p> <p>3 room?</p> <p>4 A. Me?</p> <p>5 Q. Yes, you.</p> <p>6 A. I'd probably be in there maybe five minutes.</p> <p>7 Five minutes, yeah.</p> <p>8 Q. Why just five minutes?</p> <p>9 A. Because I have to go outside and smoke a</p> <p>10 cigarette.</p> <p>11 Q. Okay.</p> <p>12 A. There's just enough time to smoke one too.</p> <p>13 Q. So you would eat your food and then you</p> <p>14 would go out and have a cigarette?</p> <p>15 A. I'm eating on the go baby, eating on the go.</p> <p>16 Q. That doesn't surprise me.</p> <p>17 What time would you normally return from</p> <p>18 your first break? What time would you go back out</p> <p>19 onto the production floor?</p> <p>20 A. Okay. About 10:35, 10:37, something like</p> <p>21 that. In between -35 and -37.</p> <p>22 Q. Can you describe for me what you would do</p> <p>23 when you would pass back through the double doors</p>   | <p style="text-align: right;">32</p> <p>1 Q. Now, you took a little while to think about</p> <p>2 that. Is that something that you're relatively</p> <p>3 certain about?</p> <p>4 A. I'm doing it in my head like I'm still</p> <p>5 there. I was there three and a half years, and</p> <p>6 the same thing every day. About seven or eight</p> <p>7 minutes.</p> <p>8 Q. And would you go generally do the same thing</p> <p>9 before and after your second break as you did</p> <p>10 before and after your first break?</p> <p>11 A. Correct.</p> <p>12 Q. And the amount of time would normally be</p> <p>13 about the same?</p> <p>14 A. Correct.</p> <p>15 Q. I'm almost afraid to ask. Can you describe</p> <p>16 for me what you would do at the end of your shift?</p> <p>17 How would you know you were released to leave?</p> <p>18 A. At the end of the shift, second shift is</p> <p>19 coming in, so you know it's about time to go. And</p> <p>20 they let you know it's about time to go. Somebody</p> <p>21 would say, "Time to go."</p> <p>22 So whenever the last bird gets past wherever</p> <p>23 you are, you are released to go. You can't just</p>       |
| <p style="text-align: right;">31</p> <p>1 and go back out onto the production floor?</p> <p>2 A. You would be walking extremely fast going</p> <p>3 and getting your stuff and putting it back on.</p> <p>4 Then after that, you probably wouldn't tie your</p> <p>5 smock up because they're already screaming you're</p> <p>6 going to be late; so go and wash off right quick</p> <p>7 like this, and go and work. You be doing</p> <p>8 everything while you're walking and rushing and</p> <p>9 hurrying anyway.</p> <p>10 Q. So you could put some of this stuff while</p> <p>11 you were walking to your spot on the line, put</p> <p>12 some of the items on?</p> <p>13 A. Right. All the time you have to wash off,</p> <p>14 sanitize off or whatever, and go on back.</p> <p>15 Q. And approximately how long would it take you</p> <p>16 from the time you entered the production area to</p> <p>17 the time you got back to your spot on the line</p> <p>18 when you were returning from break?</p> <p>19 A. How long would it take to get back to your</p> <p>20 spot?</p> <p>21 Q. Yes, ma'am.</p> <p>22 A. I'd say, coming from break, seven or eight</p> <p>23 minutes.</p> | <p style="text-align: right;">33</p> <p>1 walk off the line and leave; you have to wait</p> <p>2 until all the chickens are gone.</p> <p>3 You take -- wash all your stuff, and then</p> <p>4 take it off. You take it off and fold it up or</p> <p>5 throw it in a bag, pull your shoes off and put</p> <p>6 your regular shoes on, stuff like that, clock out</p> <p>7 and go home.</p> <p>8 Q. What time would you normally clock out?</p> <p>9 A. Sometimes I usually clocked out about 4:40,</p> <p>10 4:45, something like that.</p> <p>11 Q. During the time that you were working at the</p> <p>12 plant, did you get paid weekly?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And would you normally check your paycheck</p> <p>15 to look at the hours for which you were paid?</p> <p>16 A. Of course.</p> <p>17 Q. Did you ever have an instance when you</p> <p>18 looked at the hours for which you were paid and</p> <p>19 you went and complained to your supervisor or</p> <p>20 someone in payroll that the amount of hours was</p> <p>21 not correct?</p> <p>22 A. What they going to do about it? I mean,</p> <p>23 it's been done and nothing was did about it.</p> |

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| <p style="text-align: right;">34</p> <p>1 Q. That's not my question. My question was<br/> 2 whether you ever got your paycheck, looked at the<br/> 3 number of hours and felt it was incorrect, and<br/> 4 went and complained.<br/> 5 A. Yes, sir.<br/> 6 Q. And how many times did you do that?<br/> 7 A. After about once or twice.<br/> 8 Q. And was that because you felt there were<br/> 9 hours missing from your paycheck?<br/> 10 A. Correct.<br/> 11 Q. And did you go to your supervisor?<br/> 12 A. At first.<br/> 13 Q. And what was your -- do you specifically<br/> 14 remember any of those instances?<br/> 15 A. You mean when I went to my supervisor?<br/> 16 Q. Yes, ma'am.<br/> 17 A. As far as the specific time frame or<br/> 18 whatever, I couldn't tell you that. But I do<br/> 19 remember going to my supervisor and complaining<br/> 20 about it.<br/> 21 Q. And what were you complaining about?<br/> 22 A. Like such and such, my check's not right.<br/> 23 I'm supposed to have such and such. And they're</p> | <p style="text-align: right;">36</p> <p>1 CERTIFICATE<br/> 2<br/> 3 STATE OF ALABAMA<br/> 4 BARBOUR COUNTY<br/> 5<br/> 6 I hereby certify that the above and<br/> 7 foregoing deposition was taken down by me in<br/> 8 stenotype and the questions and answers thereto<br/> 9 were transcribed by means of computer-aided<br/> 10 transcription, and that the foregoing represents<br/> 11 a true and correct transcript of the testimony<br/> 12 given by said witness upon said hearing.<br/> 13 I further certify that I am neither of<br/> 14 counsel, nor kin to the parties to the action,<br/> 15 nor am I in anywise interested in the result of<br/> 16 said cause.<br/> 17<br/> 18<br/> 19 CYNTHIA M. NOAKES, Commissioner<br/> 20 Certified Court Reporter,<br/> 21 ACCR #327 - Expires 09/30/2008<br/> 22<br/> 23 Commission Expires 07/08/2009</p> |
| <p style="text-align: right;">35</p> <p>1 like, "You need to go to personnel." And that was<br/> 2 it.<br/> 3 Q. And did you go to personnel or payroll and<br/> 4 register your complaint?<br/> 5 A. One time I did.<br/> 6 Q. And how was that resolved?<br/> 7 A. It wasn't.<br/> 8 Q. I think those are the only questions I have<br/> 9 for you, ma'am. Thank you.<br/> 10 MR. PETRO: No questions.<br/> 11<br/> 12 (The deposition was concluded.)<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23</p>  |  |